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DEBATES AND PROCEEDINGS

IN THE

CONVENTION

OF THE

Commonwealth of Massachusetts,

HELD IN THE YEAR

1788,

AND WHICH FINALLY RATIFIED THE

CONSTITUTION OF THE UNITED STATES.

Printed by authority of Resolves of the Legislature, 1856.

BOSTON:
WILLIAM WHITE,
PRINTER TO THE COMMONWEALTH.
1856.

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PREFACE.

There have been four "Constitutional Conventions" in the history of Massachusetts. The first was that which formed the State Constitution in 1779–80; the second was that which adopted and ratified the Constitution of the United States in 1788; the third was held in 1820–21, and proposed fourteen Articles of Amendment to the State Constitution, of which nine were adopted by the people; the fourth was held in 1853, and proposed a new State Constitution which was not adopted by the people.

The Journal of the first Convention was printed by order of the legislature in 1832, on the recommendation of the Joint Committee on the Library, of which the late Hon. Alexander H. Everett was chairman.

The proceedings of the second Convention were of great importance, and were so regarded throughout the country at the time. It is quite certain that if Massachusetts had refused her assent to the Constitution of the United States, that well-devised scheme of government, the careful work of the patriots and statesmen of the last century, under which the nation has enjoyed so large a degree of prosperity, would have failed. There is ample evidence of this in the letters which are printed at the end of this volume.

The Constitution was adopted in the Massachusetts Convention, after a full discussion, by a majority of nineteen in a vote of three hundred and fifty-five. Certain amendments were recommended by the Convention, a portion of which were in substance agreed to by all the States. It is believed that at the beginning of the session of the Convention there was a majority against the Constitution. The determination which was reached must thus be ascribed, in a large degree, to the arguments which were used by the speakers.

The debates were reported in the Boston newspapers of the time, the "Independent Chronicle" and the "Massachusetts Centinel," and these reports were collected into a volume printed soon after the adjournment of the Convention. A second edition of this volume was printed in Boston in 1808; and its contents were afterwards repeated in Elliott's Debates.

In the course of the session of the Massachusetts legislature, in 1856, the attention of the Joint Committee on the Library was called by the State Librarian to the fact that the volume of Debates was rare, there being but a single copy, and that imperfect, in the possession of the Commonwealth. The interest and value of the work were obvious. Accordingly the chairman of the Committee offered the following Resolve, which passed both houses without opposition, and was approved by the Governor, March 5, 1856:—

"*Resolved*, That the Report of the Proceedings of the Massachusetts Convention of the year one thousand seven hundred and eighty-eight be reprinted under the direction of the Committee on the Library; that the same number be printed as of ordinary legislative documents; and that one copy be furnished to each member of the executive and legislative departments of the government for the present political year."

Upon inquiry in the office of the Secretary of the Commonwealth, it was discovered that the official journal, and a small file of documents relating to the Convention, which had never been printed, were in a perishable condition. It was thought that their publication would add essentially to the value of the Report, and that they were even necessary, at the present time, to throw light upon the discussions. The Committee also learned that an original manuscript, containing the clear and striking notes of the debates kept by Chief Justice Parsons, of Newburyport, who was a member of the Convention, was in the possession of the Boston Athenæum, and the Committee were kindly permitted to take a copy of it.

The printed report of the debates was not in itself an official document; and in order to give a full view of the transactions of the Convention, it seemed to be necessary that the official journal, together with the record of certain other preliminary and subsequent legislative proceedings should be presented at the same time, while Judge Parsons's notes, together with a few of the more elaborate discussions in the public prints, would serve to exhibit a clearer idea of the tone and scope of the Debates. Induced by these considerations, the Committee proposed the following additional Resolve, which, also, passed both houses with the same unanimity as the former, and was approved by the Governor, April 8, 1856:—

"*Resolved*, That in the reprint of the Report of the Proceedings of the Massachusetts Convention, of one thousand seven hundred and eighty-eight, there shall be included the Official Journal of the Convention, now in the archives of the State; and such other documents relating to the subject, as in the opinion of the Committee on the Library may be necessary."

In discharge of the duty enjoined by these Resolves, the Committee, after a full discussion of the plan, appointed two of their number—Bradford K. Peirce and Charles Hale—as a sub-committee to prepare and arrange the materials of the volume, and to supervise its passage through the press.

This work has been attended to with such diligence and ability as we were able to bring to it. It has been our understanding of the Resolves, that we were not to digest the various papers coming into our hands in order to present a new report, but to obtain and arrange such original documents as had been preserved, illustrating the transactions of the Convention. We have not sought to multiply unnecessary notes, but when an explanation seemed to be required, or when a quotation from the press of the day illustrated the text, we have appended it at the foot of the page. In order to preserve the official journal exactly as it was kept by the Secretary (with the exception of the errors in spelling) we have introduced the documents to which it refers, in the form of notes. Among these papers will be found several of permanent historical value.

We have given special attention to the correction of the press; the original report and many of the papers being sadly disfigured by typographical errors.

We have been indebted to the attentions of Hon. George S. Boutwell, the State Librarian, to his Assistant, Dr. Jackson, and to Hon. F. DeWitt, Secretary of the Commonwealth, for their assistance in consulting and using the archives of the Commonwealth; to the Boston Athenæum, for the privilege of copying Judge Parsons's Minutes, already mentioned, and for the use of its files of newspapers; to Charles Folsom, Esq., and William F. Poole, Esq.,

the past and present Librarians of the Athenæum, for facilities in using the rich literary stores of that institution; to Hon. Josiah Quincy, senior, Hon. Edward Everett, Jared Sparks, LL.D., Hon. George Bancroft, and Richard Hildreth, Esq., for their kind answers to questions asked by the Committee in the prosecution of their labors. Mr. Quincy remembers attending the debates in the gallery of the meeting-house in Federal Street. Mr. Bancroft has supplied us with two letters, which are printed at the close of the volume, and others have been copied from Mr. Sparks's valuable collections.

It will be observed that three separate and independent records of the proceedings of the Convention are included within this volume. The first is the Official Journal kept by the Secretary of the Convention, occupying pages 29 to 94, inclusive. The second is the Report of Debates, taken by the editors of the newspapers, occupying pages 95 to 284, inclusive. The third is Judge Parsons's Minutes, occupying pages 285 to 320, inclusive;—this record unfortunately closes abruptly, ten days before the adjournment of the Convention. The first and third of these records are here printed for the first time. The second is printed from the volume published in 1808, which was the second edition of the Debates. The Constitution and documents following it, beginning at page 1 and ending at page 17 of this volume, are printed in the order and style of the volume published in 1808.

B. K. P.

C. H.

COMMITTEE ON THE LIBRARY,

1856.

BRADFORD K. PEIRCE,
WILLIAM S. BRAKENRIDGE,
AUGUSTUS C. CAREY,
Of the Senate.

LEVI THAXTER,
GEORGE BEAL, JR.,
CHARLES HALE,
Of the House of Representatives.

NOTE TO THE FIRST EDITION OF THE DEBATES.

[The following Note was appended to the first edition of the Debates.]

*** The Printers who took the minutes of the preceding Debates, are conscious that there are some inaccuracies, and many omissions made in them. It could not be otherwise, as they were inexperienced in the business, and had not a very eligible situation to hear in the Convention. But this they can say, that through the whole of them, they have had a sacred regard to justice and impartiality; and therefore they are emboldened to hope for the candor and pardon of the gentlemen in whose observations they occur, (from whom they have not been able to obtain corrections,) and of the public in general.

CORRECTION.—The note on page 60 is erroneous in stating that the meeting-house where the sessions of the Convention were held, is the building *still standing*. The present building, however, stands on the same site as the former building, where the Convention sat.

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COMMISSION OF THE MASSACHUSETTS DELEGATES.

COMMONWEALTH OF MASSACHUSETTS.

By his Excellency, JAMES BOWDOIN, Esq., Governor of the Commonwealth of Massachusetts.

To the Honorable FRANCIS DANA, ELBRIDGE GERRY, NATHANIEL GORHAM, RUFUS KING, and CALEB STRONG, Esqrs., Greeting:—

Whereas, Congress did, on the 21st day of February, A. D. 1787, resolve, "That, in the opinion of Congress, it is expedient that, on the second Monday in May next, a Convention of Delegates, who shall have been appointed by the several States, to be held at Philadelphia, for the sole and express purpose of revising the Articles of Confederation, and reporting to Congress, and the several Legislatures, such alterations and provisions therein as shall, when agreed to in Congress, and confirmed by the States, render the Federal Constitution adequate to the exigencies of Government and the preservation of the Union." And whereas, the General Court have constituted and appointed you their delegates, to attend and represent this Commonwealth in the said proposed Convention, and have, by a resolution of theirs of the tenth of March last, requested me to commission you for that purpose.

Now, therefore, know ye, that in pursuance of the resolutions aforesaid, I do, by these presents, commission you, the said Francis Dana, Elbridge Gerry, Nathaniel Gorham, Rufus King, and Caleb Strong, Esqrs., or any three of you, to meet such delegates as may be appointed by the other, or any of the other States in the Union, to meet in Convention at Philadelphia, at the time, and for the purposes aforesaid.

In testimony whereof, I have caused the public seal of the Commonwealth aforesaid to be hereunto affixed. Given at the Council Chamber, in [L. S.] Boston, the ninth day of April, A. D. 1787, and in the eleventh year of the independence of the United States of America.

JAMES BOWDOIN.

By his Excellency's command.

JOHN AVERY, JUN., *Secretary.*

CONSTITUTION

OF THE

UNITED STATES,

AS PROPOSED FOR RATIFICATION BY THE SEVERAL STATES, AT THE GRAND FEDERAL CONVENTION, SEPT. 17, 1787.

PREAMBLE.

WE, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this CONSTITUTION FOR THE UNITED STATES OF AMERICA.

ARTICLE I.

LEGISLATIVE POWER.

The House of Representatives.

SECTION 1. All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.

SECT. 2. The house of representatives shall be composed of members chosen every second year, by the people of the several states; and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years

a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several states which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand; but each state shall have at least one representative; and until such enumeration shall be made, the state of New Hampshire shall be entitled to choose three; Massachusetts, eight; Rhode Island and Providence Plantations, one; Connecticut, five; New York, six; New Jersey, four; Pennsylvania, eight; Delaware, one; Maryland, six; Virginia, ten; North Carolina, five; South Carolina, five, and Georgia, three.

When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

The house of representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

Senate.

SECT. 3. The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year; of the second class at the expiration of the fourth year; and of the third class at the expiration of the sixth year; so that one-third may be chosen every second year; and if vacancies happen by resignation or otherwise, during the recess of the

legislature of any state, the executive thereof may make temporary appointments, until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

The vice-president of the United States shall be president of the senate, but shall have no vote unless they be equally divided.

The senate shall choose their other officers, and also a president *pro tempore*, in the absence of the vice-president, or when he shall exercise the office of president of the United States.

The senate shall have the sole power to try all impeachments; when sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment, in cases of impeachment, shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust, or profit, under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment according to law.

SECT. 4. The times, places and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the congress may, at any time, by law, make or alter such regulations, except as to the places of choosing senators.

THE GENERAL CONGRESS.

The congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SECT. 5. Each house shall be the judge of the elections, returns and qualifications of its own members, and a majority

of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties, as each house may provide.

Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the desire of one-fifth of those present, be entered on the journal.

Neither house, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SECT. 6. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall, in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.

THE POWERS OF CONGRESS.

SECT. 7. All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments, as on other bills.

Every bill which shall have passed the house of representatives and the senate, shall, before it become a law, be presented

to the president of the United States; if he approve, he shall sign it; but if not, he shall return it with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and, if approved by two-thirds of that house, it shall become a law. But in all such cases, the votes of both houses shall be determined by yeas and nays; and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress, by their adjournment, prevent its return, in which case it shall not be a law.

Every order, resolution or vote, to which the concurrence of the senate and house of representatives may be necessary, (except on a question of adjournment,) shall be presented to the president of the United States; and before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be repassed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

SECT. 8. The congress shall have power:—To lay and collect taxes, duties, imposts and excises; to pay the debts, and provide for the common defence and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States:—To borrow money on the credit of the United States:—To regulate commerce with foreign nations, and among the several states, and with the Indian tribes:—To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States:—To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures:—To provide for the punishment of counterfeiting the securities and current coin of the United States:—To

establish post offices and post roads:—To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries:—To constitute tribunals inferior to the supreme court:—To define and punish piracies and felonies committed on the high seas, and offences against the law of nations:—To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water:—To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years:—To provide and maintain a navy:—To make rules for the government and regulation of the land and naval forces:—To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions:—To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia, according to the discipline prescribed by congress:—To exercise exclusive legislation in all cases whatsoever, over such district, (not exceeding ten miles square,) as may by session of particular states, and the acceptance of congress, become the seat of the government of the United States; and to exercise like authority over all places purchased by consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards and other needful buildings: and to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

RESTRICTIONS UPON CONGRESS.

SECT. 9. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight: but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

No bill of attainder or *ex post facto* law shall be passed.

No capitation or other direct tax, shall be laid, unless in proportion to the census or enumeration, herein before directed to be taken.

No tax or duty shall be laid on articles exported from any state.

No preference shall be given, by any regulation of commerce or revenue, to the ports of one state over those of another; nor shall vessels bound to or from one state, be obliged to enter, clear, or pay duties in another.

No moneys shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them, shall, without the consent of the congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

RESTRICTIONS UPON RESPECTIVE STATES.

SECT. 10. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts; or grant any title of nobility. No state shall, without the consent of the congress, lay any imposts, or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the congress. No state shall, without the consent of congress, lay any duty of tonnage, keep troops, or ships of

war, in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

EXECUTIVE POWER.

SECT. 1. The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years; and, together with the vice-president, chosen for the same term, be elected as follows:—

Each state shall appoint, in such a manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in the congress: but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves: and they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit, sealed, to the seat of government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes, shall be the president, if such number be a majority of the whole number of electors appointed: And if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose by ballot one of them for president; and if no person have a majority, then from the five highest on the list, the said house shall, in like manner, choose the president: but in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose

shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the president, the person having the greatest number of votes of the electors shall be the vice-president. But if there shall remain two or more who have equal votes, the senate shall choose from them, by ballot, the vice-president.

The congress may determine the time of choosing the electors, and the day on which they shall give their votes: which day shall be the same throughout the United States.

No person, except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office, who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice-president; and the congress may by law provide for the case of removal, death, resignation or inability, both of the president and vice-president, declaring what officer shall then act as president; and such officer shall act accordingly, until the disability be removed, or a president shall be elected.

The president shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected; and he shall not receive, within that period, any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation:—

"I do solemnly swear, (or affirm,) that I will faithfully execute the office of president of the United States, and will, to the best of my ability, preserve, protect, and defend the constitution of the United States."

SECT. 2. The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United

States. He may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and, by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: but the congress may by law vest the appointment of such inferior officers as they think proper, in the president alone, in the courts of law, or in the heads of departments.

The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session.

SECT. 3. He shall, from time to time, give to the congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

SECT. 4. The president, vice-president, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

JUDICIARY POWER.

SECT. 1. The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the congress may, from time to time, ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

SECT. 2. The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states; between a state and citizens of another state; between citizens of different states, between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens, or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations, as the congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed.

SECT. 3. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be con-

victed of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

ARTICLE IV.

SECT. 1. Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state: and the congress may, by general laws, prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

SECT. 2. The citizens of each state shall be entitled to all the privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor; but shall be delivered up on claim of the party to whom such service or labor may be due.

GENERAL REGULATIONS.

SECT. 3. New states may be admitted by the congress into this Union; but no new state shall be formed or erected within the jurisdiction of any other state, nor any state be formed by the junction of two or more states or parts of states, without the consent of the legislatures of the states concerned, as well as of the congress.

The congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other

property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or any particular state.

SECT. 4. The United States shall guarantee to every state in this Union, a republican form of government; and shall protect each of them against invasion: and, on application of the legislature, or of the executive, (when the legislature cannot be convened,) against domestic violence.

ARTICLE V.

PROVISION FOR AMENDMENTS.

The congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution: or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the congress; provided, that no amendment which may be made prior to the year one thousand eight hundred and eight, shall, in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

ARTICLE VI.

GENERAL REGULATIONS.

All debts contracted, and engagements entered into, before the adoption of this constitution, shall be as valid against the United States, under this constitution, as under the confederation.

This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or

which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the constitution or laws of any state to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound, by oath or affirmation, to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

The ratification of the conventions of nine states shall be sufficient for the establishment of this constitution, between the states so ratifying the same.

Done in convention, by the unanimous consent of the states present, the seventh day of September, in the year of our Lord one thousand seven hundred and eighty-seven, and of the Independence of the United States of America, the twelfth.

In witness whereof, we have hereunto subscribed our names.

GEORGE WASHINGTON,

President and Deputy from Virginia.

New Hampshire.	JOHN LANGDON. NICHOLAS GILMAN.
Massachusetts.	NATHANIEL GORHAM. RUFUS KING.
Connecticut.	WILLIAM SAMUEL JOHNSON. ROGER SHERMAN.
New York.	ALEXANDER HAMILTON.
New Jersey.	WILLIAM LIVINGSTON. DAVID BREARLY. WILLIAM PATTERSON. JONATHAN DAYTON.

Pennsylvania.	BENJAMIN FRANKLIN. THOMAS MIFFLIN. ROBERT MORRIS. GEORGE CLYMER. THOMAS FITZSIMONS. JARED INGERSOLL. JAMES WILSON. GOUVENEUR MORRIS.
Delaware.	GEORGE READ. GUNNING BEDFORD, Jr. JOHN DICKINSON. RICHARD BASSET. JACOB BROOM.
Maryland.	JAMES M'HENRY. DANIEL OF ST. THOMAS JENIFER. DANIEL CARROL.
Virginia.	JOHN BLAIR. JAMES MADISON, Jr.
North Carolina.	WILLIAM BLOUNT. RICHARD DOBBS SPAIGHT. HUGH WILLIAMSON.
South Carolina.	JOHN RUTLEDGE. CHARLES COTESWORTH PINCKNEY. CHARLES PINCKNEY. PIERCE BUTLER.
Georgia.	WILLIAM FEW. ABRAHAM BALDWIN.

Attest. WILLIAM JACKSON, *Secretary.*

IN CONVENTION, Monday, September 17, 1787.

PRESENT—The States of New Hampshire, Massachusetts, Connecticut, Mr. Hamilton, from New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia.

Resolved, That the preceding constitution be laid before the United States in congress assembled, and that it is the opinion of this convention that it should afterwards be submitted to a convention of delegates, chosen in each state, by the people

thereof, under the recommendation of its legislature, for their assent and ratification; and that each convention assenting to, and ratifying the same, should give notice thereof to the United States in congress assembled.

Resolved, That it is the opinion of this convention, that as soon as the conventions of nine states shall have ratified this constitution, the United States, in congress assembled, should fix a day on which electors should be appointed by the states which shall have ratified the same, and a day on which the electors should assemble to vote for the president, and the time and place for commencing proceedings under this constitution. That after such publication the electors should be appointed, and the senators and representatives elected: That the electors should meet on the day fixed for the election of the president, and should transmit their votes, certified, signed, sealed and directed, as the constitution requires, to the secretary of the United States, in congress assembled, that the senators and representatives should convene at the time and place assigned; that the senators should appoint a president of the senate for the sole purpose of receiving, opening and counting the votes for president; and that after he shall be chosen, the congress, together with the president, should, without delay, proceed to execute this constitution.

By the unanimous order of the convention.

GEORGE WASHINGTON, *President*.

WILLIAM JACKSON, *Secretary*.

IN CONVENTION, September 17, 1787.

SIR,—We have now the honor to submit to the consideration of the United States, in congress assembled, that constitution which has appeared to us the most advisable. The friends of our country have long seen and desired that the power of making war, peace and treaties, that of levying money and regulating commerce, and the correspondent executive and judicial authorities, should be fully and effectually vested in the general government of the Union; but the impropriety of

delegating such extensive trust to one body of men is evident, hence results the necessity of a different organization.

It is obviously impracticable in the federal government of these states to secure all rights of independent sovereignty to each, and yet provide for the interest and safety of all. Individuals entering into society must give up a share of liberty to preserve the rest. The magnitude of the sacrifice must depend as well on situation and circumstance, as on the object to be obtained. It is at all times difficult to draw with precision the line between those rights which must be surrendered and those which may be reserved; and on the present occasion this difficulty was increased by a difference among the several states as to their situation, extent, habits, and particular interests.

In all our deliberations on this subject, we kept steadily in our view, that which appears to us the greatest interest of every true American, the consolidation of our Union, in which is involved our prosperity, felicity, safety, perhaps our national existence. This important consideration, seriously and deeply impressed on our minds, led each state in the convention to be less rigid on points of inferior magnitude than might have been otherwise expected; and thus the constitution which we now present, is the result of a spirit of amity, and of that mutual deference and concession which the peculiarity of our political situation rendered indispensible.

That it will meet the full and entire approbation of every state, is not, perhaps, to be expected; but each will doubtless consider that had her interests been alone consulted, the consequences might have been particularly disagreeable or injurious to others; that it is liable to as few exceptions as could reasonably have been expected, we hope and believe; that it may promote the lasting welfare of that country so dear to us all, and secure her freedom and happiness, is our most ardent wish.

With great respect, we have the honor to be,
Sir, your Excellency's most obedient
and humble servants.

GEORGE WASHINGTON, *President.*

By unanimous order of the convention.

His Excellency the President of Congress.

MESSAGE OF GOVERNOR HANCOCK.

[EXTRACT from the Message of His Excellency JOHN HANCOCK, to the Legislature of Massachusetts, relating to the Federal Constitution, as published in the *Independent Chronicle*, October 25, 1787.]

BOSTON, October 25.

Thursday last, His Excellency the Governor went to the State House, where, in presence of the two branches of the legislature, who had met in the representatives' chamber for the purpose, he addressed them in a speech, as follows:—

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

* * * * * * * * * *

The general convention having completed the business of their appointment, and having reported to congress, "a constitution for the United States of America," I have received the same from that honorable body, and have directed the Secretary to lay it, together with the letter accompanying it, before the legislature, that measures may be adopted for calling a convention in this Commonwealth, to take the same into consideration. It not being within the duties of my office to decide upon this momentous affair, I shall only say, that the characters of the gentlemen who have compiled this system, are so truly respectable, and the object of their deliberations so vastly important, that I conceive every mark of attention will be paid to the report. Their unanimity in deciding those questions wherein the general prosperity of the nation is so deeply involved, and the complicated rights of each separate state are so intimately concerned, is very remarkable; and I persuade myself that the delegates of this state, when assembled in convention, will be able to discern that which will tend to the future happiness and security of all the people in this extensive country.

THE ACTION OF THE LEGISLATURE.

[REPORT of a Discussion upon the Report of a Joint Committee appointed to consider that part of the Governor's Message relating to the Constitution, from the *Independent Chronicle*, October 25, 1787.]

BOSTON, October 25.

Last Friday a committee of the two branches of the legislature, appointed to consider that part of his Excellency's communication which related to the constitution proposed by the late convention of the states, laid their report before the honorable senate; who, after debating thereon, with that freedom, good humor and candor, which forever does honor to a republican assembly, agreed to the report, with some amendments, and sent it, the day following, to the honorable house of representatives for their concurrence. The substance of the resolutions of the senate, as we are informed, is a reccommendation to the several towns and districts within the Commonwealth, to elect delegates not exceeding the numbers they are empowered respectively by law, to send as members to the house of representatives, and an order to the secretary to transmit printed copies of the papers received from congress relating to the subject, together with the resolutions, to the sheriffs of the counties, by express, with positive directions to them, by themselves, or their deputies, *personally*, to deliver them to the selectmen of every town and district within their respective counties.

Ten o'clock, yesterday, being the time assigned by the honorable house of representatives, for considering the question, whether the house would concur with the senate in a resolve to call a convention according to reccommendation of congress for the acceptance of the newly proposed plan of federal government, Mr. Parsons moved for the orders of the day, when the resolve which was sent down from the senate, was opened and debated. Dr. Kilham rose and argued very warmly upon the impropriety of being in a hurry about a measure of so much consequence to the community; and said that he understood, many people thought the new system would not go down,

if not suddenly pushed, which was one reason why he was against the measure. He observed upon the right the legislatures had to appoint the late convention, upon the commission under which our members went to the convention, and upon the question, how far they had abided by that commission. Dr. Kilham dwelt some time, also, upon the right of either convention or people, to absolve the old Confederation, unless in the way stated in the articles themselves. Mr. Parsons and Dr. Jarvis, in what they observed, appeared to express the sense of the house, that so far as Dr. Kilham slid into the merits of the proposed government, so far he was out of the question, which was in fact, only whether the house would concur with the senate, to call the convention. General Brooks made a more particular reply to Dr. Kilham's observations, and pointed out clearly that what the Dr. had said, was matter much better to be before the convention than before that house; and that the Dr. was premature as he was zealous in his reflections upon the subject. Mr. Dawes rose and said, that he should not have arisen, but to combat one idea of Dr. Kilham which, he thought, had not been observed upon by the other gentlemen, which was, "that an adoption of the new constitution would be an unjust breach of the old compact." Mr. Dawes remarked, that he was sorry Dr. Kilham disputed the people's rights so warmly; and that the Dr. was so much against the people's being permitted to think for themselves. Mr. Dawes said, that as to the clause in the old Confederation, that it could not be annulled or altered but in a certain way; he thought it not unlike that law of the Romans, which contained a clause prohibiting any future repeal,—but which succeeding legislatures soon found a way to annul, by repealing that very prohibitory clause. Mr. Dawes ridiculed Dr. Kilham's expectation of civil war and misery being the consequence of only nine states acceding to the new measures; and said that some writers had thought that the house of Hanover was brought to the English throne by not more than a third of the people, and yet that civil liberty never flourished higher than in the administration of that house; whereas, he said, "the probability was, that the proposed government would take place, if at all, by the wishes of almost all the people of all or most of the states." Many

other observations were made by the above and other gentlemen, but we have neither recollection nor opportunity to add further, only that the question for a concurrence being put, it passed in the affirmative, by a majority of 129 out of 161 voters.

By this resolution, the convention is to meet at the Court House, in Boston, the second Wednesday in January. The senate had determined the meeting at an earlier period, but this was overruled in the house, in consideration of the necessity of sufficient time being allowed to the people to consider and digest a system of government with which the prosperity and happiness of the people of this country is so ultimately connected. The members of the convention are to be chosen in the same manner, by the same description of persons, and to receive the same pay as representatives, with this difference, that the sums due to them in consequence of their services, are to be defrayed from the public treasury, out of any money that shall be there anterior to the sitting of the convention, from any unappropriated funds under the control of government. The words of this resolution correspond exactly with the words of the resolution of the federal convention, and of congress, empowering the respective legislatures to call a convention; and this mode of expression, we suppose, is wisely calculated to prevent those difficulties that might otherwise have arisen.

We have the pleasure of assuring our readers, that the utmost candor and good humor subsisted on this interesting occasion. The galleries were crowded, and hundreds of spectators were admitted on the floor, and on the unoccupied seats of the house, drawn thither by their extreme curiosity and impatience to know the result of this novel and extraordinary debate. On the whole, every thing terminated to the entire satisfaction of this numerous concourse of citizens; and we can only hope and believe from the unanimity on this, that the same liberality and candor will prevail, when this town will be honored by its being the seat of as august a body, as ever sat in this Commonwealth, to amend the defects and imperfections which have so long been complained of in the former Confederation, and to secure peace, liberty and safety to this extensive continent.

RESOLUTIONS FOR THE ASSEMBLING OF THE CONVENTION.

COMMONWEALTH OF MASSACHUSETTS.

IN SENATE, October 20, 1787.

Whereas, the convention lately assembled at Philadelphia, have reported to congress a constitution for the United States of America, in which convention were represented the states of New Hampshire, Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina and Georgia; which constitution was unanimously approved by the said states in convention assembled: And whereas, that convention resolved that the said constitution should be laid before the United States in congress assembled, and that it was their opinion that it should be submitted to a convention of delegates chosen in each state by the people thereof, under the reccommendation of its legislature, for their assent and ratification; and that each convention assenting to, and ratifying the same, should give notice thereof to the United States in congress assembled.

And whereas, the United States, in congress assembled, by their resolution of the 28th of September last, unanimously resolved, "That the constitution so reported, be transmitted to the several legislatures in order to be submitted to a convention of delegates chosen in each state by the people thereof, in conformity to the resolves of the said convention, in that case made and provided." And whereas, the said constitution has been transmitted to the legislature of this Commonwealth accordingly:

It is, therefore, *Resolved*, That it be, and it is hereby recommended to the people of this Commonwealth, that a convention of delegates be chosen agreeably to, and for the purposes mentioned in the resolution of congress, aforesaid, to meet at the State House in Boston, on the second Wednesday of January next, and that the constitution so reported, be submitted to the said convention for their assent and ratification; and

that the said convention assenting to, and ratifying the same, give notice thereof to the United States in Congress assembled, in conformity to the resolves of the said convention, in that case made and provided.

And it is further *Resolved*, That the selectmen of the several towns and districts within this Commonwealth, be, and they are hereby, directed to convene as soon as may be, the inhabitants of their several towns and districts, qualified by law to vote in the election of representatives, for the purpose of choosing delegates to represent them in said convention.

And to preserve an equality to the people in their representation in the said convention, that the several towns and districts elect respectively, by ballot, not exceeding the same number of delegates as by law they are entitled to send representatives to the general court.

And it is further *Resolved*, That the secretary immediately procure to be printed a sufficient number of copies of these resolutions, as also of the said constitution, with the resolutions of the convention, and their letter to the president of congress, accompanying the same; and also of the resolution of the United States in convention assembled, thereupon; and that he may transmit three copies of the same, as soon as may be, by expresses, to the sheriffs of the several counties within this Commonwealth, with positive directions to be by them, or their deputies, without delay, *personally* delivered to the selectmen of each town and district within their respective counties.

And it is further *Resolved*, That the several delegates of the said convention, be allowed for their travel and attendance, out of the public treasury, the same pay as will be allowed to the representatives therefor, this present session, and that the same be defrayed at the public expense.

And it is further *Resolved*, That his excellency the governor, be, and he hereby, is requested, with advice of the council, to issue his warrant upon the treasurer, directing him to discharge the pay roll of the said convention, out of any moneys which will then be in the treasury, not appropriated.

And it is further *Resolved*, That if there shall not be sufficient moneys then in the treasury for that purpose, the treasurer

is hereby authorized and directed to borrow sufficient moneys therefor, on such funds of the government as are not appropriated.

Sent down for concurrence.

SAMUEL ADAMS, *President.*

In the *House of Representatives*, October 25, 1787.

Read and concurred.

JAMES WARREN, *Speaker.*

Approved, JOHN HANCOCK.

A true copy. Attest:

JOHN AVERY, Jun., *Secretary.*

LETTER OF HON. ELBRIDGE GERRY.

The following letter on the subject of the American Constitution, from the Hon. ELBRIDGE GERRY, Esq., one of the delegates representing this Commonwealth in the late Federal Convention, to the legislature, was, on Wednesday of last week, read in the senate and sent down to the house of representatives, where it was, on Thursday, read and sent up.—*Independent Chronicle*, November 8, 1787.

NEW YORK, 18th October, 1787.

GENTLEMEN,—I have the honor to enclose, pursuant to my commission, the constitution proposed by the federal convention.

To this system I gave my dissent, and shall submit my objections to the honorable legislature.

It was painful for me, on a subject of such national importance, to differ from the respectable members who signed the constitution; but, conceiving as I did, that the liberties of America were not secured by the system, it was my duty to oppose it.

My principal objections to the plan are, that there is no adequate provision for a representation of the people—that

they have no security for the right of election—that some of the powers of the legislature are ambiguous, and others indefinite and dangerous—that the executive is blended with, and will have an undue influence over the legislature—that the judicial department will be oppressive—that treaties of the highest importance may be formed by the president with the advice of two-thirds of a *quorum* of the senate—and that the system is without the security of a bill of rights. These are objections which are not local, but apply equally to all the states.

As the convention was called for "the sole and express purpose of revising the Articles of Confederation, and reporting to congress and the several legislatures such alterations and provisions as shall render the federal constitution adequate to the exigencies of government and the preservation of the Union," I did not conceive that these powers extended to the formation of the plan proposed, but the convention being of a different opinion, I acquiesced in it, being fully convinced that to preserve the Union, an efficient government was indispensably necessary; and that it would be difficult to make proper amendments to the Articles of Confederation.

The constitution proposed has few federal features, but is rather a system of national government. Nevertheless, in many respects, I think it has great merit, and by proper amendments, may be adapted to the "exigencies of government," and preservation of liberty.

The question on this plan involves others of the highest importance: 1st. Whether there shall be a dissolution of the federal government? 2dly. Whether the several state governments shall be so altered, as in effect to be dissolved? and 3dly. Whether in lieu of the federal and state governments, the national constitution now proposed shall be substituted, without amendments? Never, perhaps, were a people called on to decide a question of greater magnitude. Should the citizens of America adopt the plan as it now stands, their liberties may be lost; or, should they reject it altogether, anarchy may ensue. It is evident, therefore, that they should not be precipitate in their decisions; that the subject should be well under-

stood, lest they should refuse to support the government, after having hastily accepted it.

If those who are in favor of the constitution, as well as those who are against it, should preserve moderation, their discussions may afford much information, and finally direct to a happy issue.

It may be urged by some that an implicit confidence should be placed in the convention. But, however respectable the members may be who signed the constitution, it must be admitted that a free people are the proper guardians of their rights and liberties—that the greatest men may err—and that their errors are sometimes of the greatest magnitude.

Others may suppose that the constitution may be safely adopted, because therein provision is made to amend it. But cannot this object be better attained before a ratification than after it? And should a free people adopt a form of government under conviction that it wants amendment?

And some may conceive that if the plan is not accepted by the people, they will not unite in another. But surely, whilst they have the power to amend, they are not under the necessity of rejecting it.

I have been detained here longer than I expected, but shall leave this place in a day or two for Massachusetts, and on my arrival shall submit the reasons (if required by the legislature) on which my objections are grounded.

I shall only add that as the welfare of the Union requires a better constitution than the Confederation, I shall think it my duty as a citizen of Massachusetts, to support that which shall be finally adopted, sincerely hoping it will secure the liberty and happiness of America.

I have the honor to be, gentlemen, with the highest respect for the honorable legislature and yourselves, your most obedient, and very humble servant,

E. GERRY.

The Hon. SAMUEL ADAMS, Esq.,
President of the Senate, and
The Hon. JAMES WARREN, Esq.,
Speaker of the House of Representatives of Massachusetts.

OFFICIAL JOURNAL.

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The Hon. SAMUEL ADAMS, Esq.,
President of the Senate, and
The Hon. JAMES WARREN, Esq.,
Speaker of the House of Representatives of Massachusetts.

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JOURNAL.

WEDNESDAY, January 9, 1788.

On motion,

Ordered, That Mr. Gorham, Mr. Carnes, Dr. Jarvis, Mr. Dalton, Mr. Spooner and Mr. Davis, be a Committee to receive the returns of the several towns.

By the returns from the several towns, it appeared that the following gentlemen were chosen to represent them in Convention, viz.:—

COUNTY OF SUFFOLK.

Boston, ...	His Excellency John Hancock, Esq.
	Hon. James Bowdoin, Esq.
	Hon. Samuel Adams, Esq.
	Hon. William Phillips, Esq.
	Hon. Caleb Davis, Esq.
	Charles Jarvis, Esq.
	John Coffin Jones, Esq.
	John Winthrop, Esq.
	Thomas Dawes, Jr., Esq.
	Rev. Samuel Stillman.
	Thomas Russell, Esq.
	Christopher Gore, Esq.
Roxbury, ...	Hon. William Heath, Esq.
	Hon. Increase Sumner, Esq.
Dorchester, . . .	James Bowdoin, Jr., Esq.
	Ebenezer Wales, Esq.
Milton, ...	Rev. Nathaniel Robbins.
Weymouth, . . .	Hon. Cotton Tufts, Esq.
Hingham, ...	Hon. Benjamin Lincoln, Esq.
	Rev. Daniel Shute.

Braintree, . . .	Hon. Richard Cranch, Esq.
	Rev. Anthony Wibird.
Brookline, . . .	Rev. Joseph Jackson.
Dedham, ...	Rev. Thomas Thacher.
	Fisher Ames, Esq.
Needham, ...	Col. William McIntosh.
Medfield, ...	Capt. John Baxter, Jr.
Stoughton, . . .	Hon. Elijah Dunbar, Esq.
	Capt. Jedidiah Southworth.
Wrentham, . . .	Mr. Thomas Mann.
	Mr. Nathan Comstock.
Walpole, ...	Mr. George Payson.
Sharon, ...	Mr. Benjamin Randall.
Cohasset, ...	
Franklin, ...	Hon. Jabez Fisher, Esq.
Medway, ...	Mr. Moses Richardson, Jr.
Bellingham, . . .	Rev. Noah Alden.
Hull, ...	Mr. Thomas Jones.
Chelsea, ...	Rev. Phillips Payson.
Foxborough, . . .	Mr. Ebenezer Warren.

COUNTY OF ESSEX.

Salem, ...	Richard Manning, Esq.
	Edward Pulling, Esq.
	Mr. William Gray, Esq.
	Mr. Francis Cabot.
Danvers, ...	Hon. Samuel Holten, Esq.
	Hon. Israel Hutchinson, Esq.
Newbury, ...	Hon. Tristram Dalton, Esq.
	Enoch Sawyer, Esq.
	Ebenezer March, Esq.
Newbury Port, . .	Hon. Rufus King, Esq.
	Hon. Benjamin Greenleaf, Esq.
	Theophilus Parsons, Esq.
	Hon. Jonathan Titcomb, Esq.
Beverly, ...	Hon. George Cabot, Esq.
	Mr. Joseph Wood.
	Capt. Israel Thorndike.

Ipswich, ...	Hon. Michael Farley, Esq.
	John Choate, Esq.
	Daniel Noyes, Esq.
	Col. Jonathan Cogswell.
Marblehead, . . .	Isaac Mansfield, Esq.
	Jonathan Glover, Esq.
	Hon. Azor Orne, Esq.
	John Glover, Esq.
Gloucester, . . .	Daniel Rogers, Esq.
	John Low, Esq.
	Capt. William Pearson.
Lynn and Lynnfield, . .	John Carnes, Esq.
	Capt. John Burnham.
Andover, ...	Capt. Peter Osgood, Jr.
	Dr. Thomas Kittridge.
	Mr. William Symmes, Jr.
Rowley, ...	Capt. Thomas Mighill.
Haverhill, . . .	Bailey Bartlett, Esq.
	Capt. Nathaniel Marsh.
Topsfield, ...	Mr. Israel Clark.
Salisbury, . . .	Dr. Samuel Nye.
	Mr. Enoch Jackman.
Almsbury, . . .	Capt. Benjamin Lurvey.
	Mr. Willis Patten.
Boxford, ...	Hon. Aaron Wood, Esq.
Bradford, ...	Daniel Thurston, Esq.
Methuen, ...	Capt. Ebenezer Carlton.
Wenham, ...	Mr. Jacob Herrick.
Manchester, . . .	Mr. Simeon Miller.
Middleton, . . .	

COUNTY OF MIDDLESEX.

Cambridge, . . .	Hon. Francis Dana, Esq.
	Stephen Dana, Esq.
Charlestown, . .	Hon. Nathaniel Gorham, Esq.
Watertown, . . .	Dr. Marshall Spring.
Woburn, ...	Capt. Timothy Winn.
	Mr. James Fowle, Jr.
Concord, ...	Hon. Joseph Hosmer, Esq.

Newton, ... Hon. Abraham Fuller, Esq.
Reading, ... Mr. William Flint.
Mr. Peter Emerson.
Marlborough, . . Mr. Jonas Morse.
Maj. Benjamin Sawin.
Billerica, ... William Tompson, Esq.
Framingham, . . Capt. Lawson Buckminster.
Lexington, . . . Benjamin Brown, Esq.
Chelmsford, . . . Maj. John Minot.
Sherburne, . . . Daniel Whitney, Esq.
Sudbury, ... Capt. Asahel Wheeler.
Malden, ... Capt. Benjamin Blaney.
Weston, ... Capt. Abraham Bigelow.
Medford, ... Maj. Gen. John Brooks.
Hopkinton, . . . Capt. Gilbert Dench.
Westford, ... Mr. Jonathan Keep.
Stow, ... Dr. Charles Whitman.
Groton, ... Dr. Benjamin Morse.
Joseph Sheple, Esq.
Shirley, ... Mr. Obadiah Sawtell.
Pepperell, . . . Mr. Daniel Fisk.
Waltham, ... Leonard Williams, Esq.
Townshend, . . . Capt. Daniel Adams.
Dracut, ... Hon. Joseph Bradley Varnum, Esq.
Bedford, ... Capt. John Webber.
Holliston, ... Capt. Staples Chamberlin.
Acton and Carlisle, Mr. Asa Parlin.
Dunstable, . . . Hon. John Pitts, Esq.
Lincoln, ... Hon. Eleazer Brooks, Esq.
Wilmington, . . . Capt. John Harnden.
Tewksbury, . . . Mr. Newman Scarlett.
Littleton, ... Mr. Samuel Reed.
Ashby, ... Mr. Benjamin Adams.
Natick, ... Maj. Hezekiah Broad.
Stoneham, . . . Capt. Jonathan Green.
East Sudbury, . . Mr. Phineas Gleazen.
Boxborough, . . .

COUNTY OF HAMPSHIRE.[1]

Springfield, . . .	William Pynchon, Esq.
West Springfield, .	Col. Benjamin Ely.
	Capt. John Williston.
Wilbraham, . . .	Capt. Phinehas Stebbins.
Northampton and Easthampton, .	Hon. Caleb Strong, Esq. Mr. Benjamin Sheldon.
Southampton, . .	Capt. Lemuel Pomeroy.
Hadley, ...	Brig. Gen. Elisha Porter.
Southadley, . . .	Hon. Noah Goodman, Esq.
Amherst, ...	Mr. Daniel Cooley.
Granby, ...	Mr. Benjamin Eastman.
Hatfield, ...	Hon. John Hastings, Esq.
Whateley,. . . .	Mr. Josiah Allis.
Williamsburg, . .	Mr. William Bodman.
Westfield,. . . .	John Ingersoll, Esq.
	Mr. John Phelps.
Deerfield,. . . .	Mr. Samuel Field.
Greenfield, . . .	Mr. Moses Bascom.
Shelburne, . . .	Mr. Robert Wilson.
Conway, ...	Capt. Consider Arms.
	Mr. Malachi Maynard.
Sunderland, . . .	Capt. Zacheus Crocker.
Montague, . . .	Mr. Moses Severance.
Northfield, . . .	Mr. Ebenezer Janes.
Brimfield,. . . .	Abner Morgan, Esq.
South Brimfield, .	Capt. Asa Fisk.
Monson, ...	Mr. Phinehas Merrick.
Pelham, ...	Mr. Adam Clark.
Greenwich, . . .	Capt. Nathaniel Whitcomb.
Blanford,. . . .	Mr. Timothy Blair.
Palmer, ...	Mr. Aaron Merrick.
Granville, . . .	Mr. John Hamilton.
	Mr. Clark Cooley.
New Salem, . . .	Mr. John Chamberlin.

[1] [Hampshire County, in 1788, included the present counties of Hampshire, Hampden and Franklin.]

Belchertown,	Mr. Justus Dwight.
Colrain,	Mr. Samuel Eddy.
Ware,	Mr. Isaac Pepper.
Warwick and Orange,	Capt. John Goldsbury.
Bernardston,	Capt. Agrippa Wells.
Chester,	Capt. David Shepard.
Charlemont,	Mr. Jesse Reed.
Ashfield,	Mr. Ephraim William.
Worthington,	Nahum Eager, Esq.
Shutesbury,	Mr. Asa Powers.
Chesterfield,	Col. Benjamin Bonney.
Goshen,	
Southwick,	Capt Silas Fowler.
Norwich,	Maj. Thomas James Douglass.
Ludlow,	Mr. John Jennings.
Leverett,	Mr. Jonathan Hubbard.
Westhampton,	Mr. Aaron Fisher.
Montgomery,	
Cummington and Plainfield,	Mr. Edmund Lazell.
Buckland,	Capt. Thompson Maxwell.
Longmeadow,	Mr. Elihu Colton.
Middlefield,	
Wendell,	

COUNTY OF PLYMOUTH.

Plymouth,	Joshua Thomas, Esq. Mr. Thomas Davis. Mr. John Davis.
Scituate,	Hon. William Cushing, Esq. Hon. Nathan Cushing, Esq. Hon. Charles Turner, Esq.
Duxborough,	Hon. George Partridge, Esq.
Marshfield,	Rev. William Shaw.
Bridgwater,	Daniel Howard, Esq. Mr. Hezekiah Hooper. Capt. Elisha Mitchell. Mr. Daniel Howard, Jr.

Middleborough, . . Rev. Isaac Backus.
Mr. Benjamin Thomas.
Isaac Tomson, Esq.
Mr. Isaac Soul.
Rochester, . . . Mr. Nathaniel Hammond.
Mr. Abraham Holmes.
Plympton, ... Capt. Francis Shurtliff.
Mr. Elijah Bisbee, Jr.
Pembroke, . . . Capt. John Turner.
Mr. Josiah Smith.
Kingston, ... William Sever, Jr., Esq.
Hanover, ... Hon. Joseph Cushing, Esq.
Abington, ... Rev. Samuel Niles.
Halifax, ... Mr. Freman Waterman.
Wareham, . . . Col. Israel Fearing.

COUNTY OF BARNSTABLE.

Barnstable, . . . Nymphas Marston, Esq.
Shearjashub Bourn, Esq.
Sandwich, . . . Dr. Thomas Smith.
Mr. Thomas Nye.
Yarmouth, . . . David Thacher, Esq.
Capt. Jonathan Howes.
Eastham, ...
Harwich, ... Hon. Solomon Freeman, Esq.
Capt. Kimbal Clark.
Welfleet, ... Rev. Levi Whitman.
Falmouth, ... Capt. Joseph Palmer.
Truro, ...
Chatham, ...
Province Town, . .

COUNTY OF BRISTOL.

Taunton, ... James Williams, Esq.
Col. Nathaniel Leonard.
Mr. Aaron Pratt.
Rehoboth, ... Capt. Phanuel Bishop.
Maj. Frederick Drown.

Rehoboth, ... William Winsor, Esq.
Swanzey, ... Mr. Christopher Mason.
Mr. David Brown.
Dartmouth, . . . Hon. Holder Slocum, Esq.
Mr. Meletiah Hathaway.
Norton, ... Hon. Abraham White, Esq.
Attleborough, . . Hon. Elisha May, Esq.
Capt. Moses Willmarth.
Dighton, ... Col. Sylvester Richmond.
Hon William Baylies, Esq.
Freetown, . . . Hon. Thomas Durfee, Esq.
Mr. Richard Bordon.
Rainham, ... Israel Washburn, Esq.
Easton, ... Capt. Ebenezer Tisdell.
Mansfield, . . . Capt. John Pratt.
Berkley, ... Samuel Tobey, Esq.
New Bedford, . . Hon. Walter Spooner, Esq.
Rev. Samuel West.
Westport, ... Mr. William Almy.

COUNTY OF YORK.[2]

York, ... Capt. Esaias Preble.
Nathaniel Barrell, Esq.
Kittery, ... Mr. Mark Adams.
Mr. James Neal.
Wells, ... Rev. Dr. Moses Hemmenway.
Hon. Nathaniel Wells, Esq.
Berwick, ... Capt. Elijah Thayer.
Dr. Nathaniel Low.
Mr. Richard Fox Cutts.
Arundell, ...
Biddeford, . . .
Pepperellboro', . . Thomas Cutts, Esq.
Lebanon, ... Mr. Thomas M. Wentworth.
Sanford, ... Maj. Samuel Nasson.
Buxton, ... Jacob Bradbury, Esq.
Fryeburg, . . . Mr. Moses Ames.

[2] [In the present State of Maine.]

Coxhall, ... Capt. John Low.
Massabeseck, . .
Limerick, ...
Brownfield, . . .
Little Falls, . . .
Shapleigh, . . . Mr. Jeremiah Emery.
Pearsonfield, . . .
Waterborough, . . Rev. Pelatiah Tingley.

COUNTY OF DUKES COUNTY.

Edgartown, . . . Mr. William Mayhew.
Chilmark, ...
Tisbury, ... Mr. Cornelius Dunham.

COUNTY OF NANTUCKET.

Sherburne, . . .

COUNTY OF WORCESTER.

Worcester, . . . Hon. Samuel Curtis, Esq.
Mr. David Bigelow.
Lancaster, . . . Hon. John Sprague, Esq.
Mendon, ... Edward Thompson, Esq.
Brookfield, . . . Mr. James Nichols.
Mr. Daniel Forbes.
Mr. Nathaniel Jenks.
Oxford, ... Capt. Jeremiah Learned.
Charlton, ... Mr. Caleb Curtis.
Mr. Ezra McIntier.
Sutton, ... Mr. David Harwood.
Hon. Amos Singletary, Esq.
Leicester, ... Col. Samuel Denny.
Spencer, ... Mr. James Hathaway.
Rutland, ... Mr. Asaph Sherman.
Paxton, ... Mr. Abraham Smith.
Oakham, ... Capt. Jonathan Bullard.
Barre, ... Capt. John Black.
Hubbardston, . . Capt. John Woods.
New Braintree, . . Capt. Benjamin Josselyn.

Southborough, . . Capt. Seth Newton.
Westborough, . . Capt. Stephen Maynard.
Northborough, . . Mr. Artemas Brigham.
Shrewsbury, . . . Capt. Isaac Harrington.
Lunenburgh, . . . Capt. John Fuller.
Fitchburgh, . . . Mr. Daniel Putnam.
Uxbridge, ... Dr. Samuel Willard.
Harvard, ... Josiah Whitney, Esq.
Dudley, ... Mr. Jonathan Day.
Bolton, ... Hon. Samuel Baker, Esq.
Upton, ... Capt. Thomas M. Baker.
Sturbridge, . . . Capt. Timothy Parker.
Leominster, . . . Maj. David Wilder.
Hardwick, . . . Maj. Martin Kinsley.
Holden, ... Rev. Joseph Davis.
Western, ... Mr. Matthew Patrick.
Douglass, ... Hon. John Taylor, Esq.
Grafton, ... Dr. Joseph Wood.
Petersham, . . . Jonathan Grout, Esq.
Capt. Samuel Peckham.
Royalston, . . . John Frye, Esq.
Westminster, . . Mr. Stephen Holden.
Templeton, . . . Capt. Joel Fletcher.
Princeton, . . . Mr. Timothy Fuller.
Ashburnham, . . . Mr. Jacob Willard.
Winchendon, . . . Mr. Moses Hale.
Northbridge, . . . Capt. Josiah Wood.
Ward, ... Mr. Joseph Stone.
Athol, ... Mr. Josiah Goddard.
Milford, ... Mr. David Stearns.
Sterling, ... Capt. Ephraim Wilder.
Boylston, ... Mr. Jonas Temple.

COUNTY OF CUMBERLAND.[3]

Falmouth, . . . Daniel Ilsley, Esq.
John K. Smith, Esq.
Portland, ... Mr. John Fox.

[3] [In the present State of Maine.]

Portland,	Capt. Joseph McLellan.
North Yarmouth,	David Mitchell, Esq.
	Samuel Merrill, Esq.
Scarborough,	William Thompson, Esq.
Brunswick,	Capt. John Dunlap.
Harpswell,	Capt. Isaac Snow.
Cape Elizabeth,	Mr. Joshua Dyer.
Gorham,	Mr. Stephen Longfellow, Jr.
New Gloucester,	Mr. William Wedgery.
Gray,	Rev. Samuel Perley.
Windham,	
Standish,	
Royalsborough,	
Raymondstown,	
Bakerstown,	
Sylvester,	
Bridgtown,	
Shepardstown,	

COUNTY OF LINCOLN.[4]

Pownalborough,	Thomas Rice, Esq.
	Mr. David Sylvester.
Georgetown,	Mr. Nathaniel Wyman.
Newcastle,	Mr. David Murray.
Woolwich,	Mr. David Gilmore.
Waldoborough,	
Topsham,	Hon. Samuel Thompson, Esq.
Winslow,	Mr. Jonah Crosby.
Bowdoinham,	Mr. Zacheus Beal.
Boothbay,	William McCobb, Esq.
Vassalborough,	Capt. Samuel Grant.
Bristol,	William Jones, Esq.
Edgcomb,	Moses Davis, Esq.
Hallowell,	Capt. James Carr.
St. George's,	
Warren,	
Thomaston,	David Fales, Esq.

[4] [In the present State of Maine.]

Bath,	Dummer Sewall, Esq.
Winthrop,	Mr. Joshua Bean.
Lewistown,	
Ballstown,	
Walpole,	
Wales,	
Canaan,	
Pittston,	
Medumcook,	
Norridgwalk,	
Sterlington,	
Belfast,	
Machias,	
Camden,	
Hancock,	

COUNTY OF BERKSHIRE.

Sheffield and Mt. Washington,	John Ashley, Jr., Esq.
Great Barrington,	Hon. Elijah Dwight, Esq.
Stockbridge,	Hon. Theodore Sedgwick, Esq.
Pittsfield,	Capt. David Bush.
Richmond,	Mr. Valentine Rathbun.
	Mr. Comstock Betts.
Lenox,	Mr. Lemuel Collins.
Lanesborough,	Hon. Jonathan Smith, Esq.
Williamstown,	Hon. Tompson J. Skinner, Esq.
Adams,	Capt. Jeremiah Pierce.
Egremont,	Ephraim Fitch, Esq.
Becket,	Mr. Elisha Carpenter.
West Stockbridge,	Maj. Thomas Lusk.
Dalton,	
Alford,	Mr. John Hurlbert.
New Ashford,	
New Marlborough,	Capt. Daniel Taylor.
Tyringham,	Capt. Ezekiel Herrick.
Loudon,	Mr. Joshua Lawton.
Windsor,	Mr. Timothy Mason.
Partridgefield,	Ebenezer Peirce, Esq.

Hancock, ... Mr. David Vaughan.
Lee, ... Capt. Jesse Bradley.
Washington, . . . Mr. Zenos Noble.
Sandisfield, . . . Mr. John Picket, Jr.

On motion,

Ordered, That Mr. Gorham, Mr. Carnes, Dr. Jarvis, Mr. Dalton, Mr. Spooner, Mr. Davis and Dr. Taylor, be a Committee to receive the returns of the several towns.

Ordered, That a Committee of five persons be appointed to collect, count and sort the votes for Secretary.

Mr. Davis, Mr. Dalton, Mr. Wood, Mr. Brooks and Mr. Turner, were appointed on the said committee.

The Convention then proceeded to the choice of a Secretary, by ballot, and the votes being taken, it appeared that George Richards Minot, Esquire, was chosen, who accepted of the choice, and was duly sworn, to qualify him for exercising the duties of that office.

Voted, That Mr. Jacob Kuhn, the Messenger of the General Court, be appointed Messenger to this Convention.

Voted, That 4 o'clock, P. M., be assigned for coming to the choice of a President.

Voted, That five Monitors be chosen.

The following gentlemen were then elected, viz.: Hon. Noah Goodman, Esq., Mr. Phanuel Bishop, Mr. Daniel Cooley, Hon. Azor Orne, Esq., and Mr. Thomas Davis.

Voted, That a Committee of seven be appointed to prepare Rules and Orders for the regulation of the Convention.

Mr. Gorham, Dr. Jarvis, Dr. Taylor, Mr. Wedgery, Mr. Dalton, Mr. Sedgwick, and Mr. Bowdoin, of Dorchester, were appointed on the said committee.

Ordered, That the Committee who were appointed to receive the returns of the members, be instructed to examine them, and report.

Adjourned to 4 o'clock, P. M.

AFTERNOON.

Met according to adjournment.

The Convention proceeded to the choice of a President, by ballot, according to assignment, and a Committee of five being appointed to collect, count and sort the votes, it appeared that His Excellency JOHN HANCOCK, Esquire, was chosen.

Voted, That the Convention proceed to the choice of a Vice-President.

The Convention then proceeded to the choice of a Vice-President accordingly, by ballot, and a Committee being appointed to collect, count and sort the votes, it appeared that the Hon. WILLIAM CUSHING, Esquire, was chosen.

Voted, That the Vice-President be requested to take the chair, who took the chair accordingly.

Voted, That a Committee of five be appointed to wait upon His Excellency John Hancock, Esq., and acquaint him that this Convention have made choice of him for their President, and to request his Excellency's acceptance of that appointment.

Mr. Russell, Dr. Holten, Mr. Sedgwick, Mr. Turner and Mr. Dalton were then appointed on the said committee..

Voted, That the Convention will attend morning prayers daily, and that the gentlemen of the clergy in Boston, of every denomination, be requested to officiate in turn.

The members from Boston were appointed to wait upon them and acquaint them thereof.

A vote of the Church in Brattle Street, in Boston, offering the use of their meeting-house to the Convention, having been communicated,[5]

Voted, That a Committee of nine be appointed to view the accommodations in the said meeting-house, and report.

[5] [The proprietors of the Church sent the following communication to the Convention.

"At a meeting of the Proprietors of the Meeting-house in Brattle Street, Boston, Jan. 6th, 1788:—

Whereas, The State Convention appointed to consider the reported Federal Constitution are to meet at the State House, in Boston on the 9th instant, and the said house being unsuitable for the convenient reception of so large a body,

Mr. Sedgwick, Gen. Lincoln, Dr. Taylor, Gen. Brooks, of Lincoln, Dr. Jarvis, Dr. Holten, Mr. Strong, Mr. Nasson and Mr. Thacher, were then appointed on the said committee.

Adjourned to Thursday morning, 10 o'clock.

THURSDAY, January 10, 1788.

Met according to adjournment.

The Committee appointed to wait upon his Excellency the Governor, to inform him of his being chosen President of the Convention, &c., reported verbally, that his Excellency signified his acceptance of that appointment, and expressed his expectation of soon attending to the duties of the office.[6]

Ordered, That Gen. Heath, Gen. Titcomb, Mr. Fuller and Dr. Spring, be on the Committee for examining the returns of the members, in the room of Mr. Gorham, Dr. Jarvis, Mr. Dalton and Dr. Taylor, excused.

The Committee appointed to examine the accommodations in

and this Society being desirous of accommodating them in the best manner they are able,

Voted, unanimously, That the meeting-house in Brattle Street, belonging to this Society, shall be for the use of that honorable body, for holding their meetings on the said business, whenever they shall signify their pleasure for that purpose to the Committee of this Society; and that a copy of this vote be communicated to them as soon as they shall be convened.

A true copy from the Records.

Attest: DANL. BELL, *Clerk.*"]

[6] [The following is the note of acceptance addressed by Governor Hancock to the Committee.

"The Governor presents his respectful compliments to Mr. Russell, and the other gentlemen of the Committee of the Convention, from whom he had the honor of receiving a message this evening, and begs the favor of their reporting to the honorable Convention that he has a lively sense of the honor done him, by their electing him President, and that he hopes soon to attend his duty, and afford his feeble assistance in the important business before them.

Wednesday Evening, 9th January, 1788."]

the meeting-house in Brattle Street,[1] reported verbally, that it would be convenient for the Convention to sit in that place, and that the galleries only should be assigned for the spectators, which report was accepted, and it was

Ordered, That the Sexton usually attending at the said meeting-house, be appointed to assist the Messenger.

Ordered, That the Messenger prepare the said meeting-house for the reception of the Convention this afternoon.

Voted, That the thanks of this Convention be given to the proprietors of the meeting-house in Brattle Street, in Boston, for their offer of the use of the said house to the Convention, and that Mr. Turner, Mr. Nasson and Mr. Carnes, be a Committee to communicate this vote to the said proprietors, and to acquaint them that the Convention have agreed to sit therein.

The Committee appointed to examine the returns of the members, requested the sense of the Convention as to the rule of examining the said returns. Whereupon, it was made a question whether the Convention will give a rule to the said committee, and, the same being put, it passed in the affirmative, and it was

Ordered, That, if the said committee find that any town hath deputed more delegates than by the last valuation such town was entitled to send representatives to the general court, according to the return of the said valuation, they report a state of the facts relative to such town, to the Convention.

The Committee appointed to prepare Rules and Orders for the regulation of the Convention, made report, and the same being debated in part, the further consideration thereof was postponed to the afternoon.

Voted, That, after the next adjournment, the Convention will assemble at the meeting-house, in Brattle Street, in this town.

Adjourned to 3 o'clock, P. M.

AFTERNOON.

Met according to adjournment.

Voted, That another Monitor be chosen, and that the several Monitors take their divisions in the meeting-house.

[1] [This was the building marked with the cannon ball, still standing in Brattle Square.]

The House then proceeded to the choice of a Monitor, by nomination, and the Hon. Abraham White, Esq., was chosen.

Voted, That seats be assigned for the gentlemen of the clergy who may attend the debates, upon the lower floor, *without* the seats occupied by the members.

The Convention resumed the consideration of the report of the Committee appointed to prepare Rules and Orders for their regulation, which being amended to read as follows, was accepted, and ordered to be put up in a conspicuous place.

RULES AND ORDERS.

1st. No person shall sit at the table except the President and Secretary.

2d. No person shall speak without first rising and addressing the President, and he shall sit down as soon as he has done speaking.

3d. No person shall be interrupted while speaking, but by being called to order, or to correct a mistake.

4th. No member shall speak more than once to any one question until any other member who has not spoken shall speak, if he desire it, nor more than twice until any other has spoken twice that desires to speak.

5th. When any member shall make a motion, and such motion shall be seconded by another, the same shall be considered by the Convention, and not otherwise.

6th. No member shall declare a question a vote, until the President has declared it to be a vote or not.

7th. No member shall nominate more than one person for one committee, provided the person by him nominated shall be chosen.

8th. No vote shall be reconsidered unless there be as many members in the house at the time of the motion for a reconsideration, as there were when it passed, provided a return of the house shall be called for at the time such motion is made, and in all such cases there shall be an injunction upon the members to attend until the question shall be determined, and no other question shall be previously determined, excepting for an adjournment.

9th. No member shall be permitted to stand up to the inter-

ruption of another while any member is speaking, or pass between the President and the person speaking.

10th. When a vote is declared by the President, and any member rises to doubt the vote, the house shall be returned, and the vote made certain without any further debate upon the question.

11th. The Monitors who are or shall be appointed, shall see the due observance of the foregoing orders, one to be set in each division of the house, and, if required by the President, to return the number of votes and members in their respective quarters.

12th. No member shall be considered at liberty to leave the Convention without the permission of the same, unless by consent of his constituents.

Voted, That Mr. Goodman and Dr. Tufts, be on the Committee for examining the returns, in the room of Gen. Heath and Gen. Titcomb, excused.

Adjourned to Friday morning, 10 o'clock.

FRIDAY, January 11, 1788.

Met according to adjournment.

A remonstrance from certain inhabitants of Sheffield, against the election of Col. John Ashley, Jr., as a delegate to this Convention. Read and committed to Dr. Taylor, Mr. Sumner, Mr. Strong, Mr. Tufts, Mr. Rice, Gen. Brooks, of Lincoln, and Mr. Adams.

A remonstrance from certain inhabitants of Great Barrington, against the election of the Hon. Elijah Dwight, Esq. Read and committed to Mr. Cabot, Mr. Nasson, Gen. Whitney, Mr. Phelps, Mr. Fisher, Mr. Bourn and Mr. Cushing.

A remonstrance from certain inhabitants of Williamstown, against the election of the Hon. Tompson J. Skinner, Esq. Read and committed to Mr. Varnum, Mr. Wales, Mr. West, Mr. Wedgery, Mr. Sylvester, Mr. Dunbar and Mr. Sprague.

Ordered, That the Committees be enjoined to sit.

Adjourned to 3 o'clock, P. M.

AFTERNOON.

Met according to adjournment.

The Committee appointed to wait upon the proprietors of the meeting-house in Brattle Street, &c., reported that they had attended that service, agreeably to their commission.

The Committee on the remonstrance of certain inhabitants of Sheffield, made report that there was no evidence to support the said remonstrance. Ordered that the same lie on file.

The Committee appointed to examine the returns of the members, made report, whereupon, it was

Voted, That the returns certified by the selectmen be considered as valid, except in the disputed cases specially committed.

There being two returns from the town of Taunton,

Voted, That the return of the last date, which was not attested by the selectmen, be committed to a Committee of five.

Mr. Davis, Mr. Nasson, Mr. Thompson, of Topsham, Dr. Taylor and Mr. Winthrop, were appointed on the committee.

Voted, That a Committee be appointed to consider of the expediency of the Convention removing to another place in Boston, and to ascertain whether a more convenient house cannot be obtained for their use.

Gen. Brooks, Gen. Lincoln, Mr. Bowdoin, of Dorchester, Mr. Sedgwick, Dr. Spring, Mr. Nasson and Mr. Wedgery, were appointed on the said committee.

Dr. Tufts and Mr. White had leave of absence.

Voted, That when the Convention are adjourned they be adjourned to meet in the Representatives' Chamber.

Voted, That the Convention be adjourned to 10 o'clock in the morning.

Adjourned accordingly.

SATURDAY, January 12, 1788.

Met according to adjournment.

The Committee appointed to consider of the expediency of the Convention's removing to another place, &c., being called

upon to report, a motion was made that the said committee be enjoined to proceed in the business of their commission, and the question being put, passed in the negative.

The Committee on the return from the town of Taunton,[8] made a report of a state of facts, whereupon it was moved that the sense of the House be taken whether the two members men-

[8] [The following remonstrance was received from Taunton.

"*To the Honorable the Convention of the Commonwealth of Massachusetts, to be holden at Boston, on the second Wednesday of January, A. D.* 1788:—

The Memorial of the subscribers, Selectmen, Freeholders and Inhabitants of the Town of Taunton, in the County of Bristol, humbly represents,

That at a meeting of the inhabitants of said town of Taunton, qualified to vote for representatives to the General Court, on the twenty-sixth day of November last past, duly warned and assembled agreeably to a Resolve of the Legislature, passed on the twenty-fifth day of October last past, for the purpose of choosing a Convention to consider of the proposed Federal Constitution, the said inhabitants made choice of James Williams, Esq., to represent them in said Convention, agreeably to the copy No. 1, hereto annexed, and also voted they would choose no other person for that purpose, and thereupon the said meeting was dissolved. That afterwards, a number of the inhabitants of the town aforesaid, petitioned the Selectmen thereof to call a meeting of the inhabitants of the same town, qualified to vote in town affairs, for the purpose of choosing one or more persons in addition to the one already chosen, to represent them in said Convention. That in compliance with said request, the Selectmen aforesaid called a meeting of the said inhabitants qualified to vote in town affairs, to be held on the day of the date hereof; that the same inhabitants have on this day assembled, and upon the question whether they would proceed to choose one or more members, agreeably to the request aforesaid, there appeared in favor of the question, 156, against it, 140; and thereupon, Capt. Nathaniel Leonard and Mr. Aaron Pratt were chosen to join with the said James Williams, Esq., to represent the inhabitants of said town in the Convention aforesaid. The subscribers, part of the 140 aforesaid, and who are fully convinced that the rest of them are clearly of the same opinion, humbly conceive that the elections aforesaid, of the said Leonard and Pratt, were wholly illegal, and not supported by the Resolve of the Legislature aforesaid. Wherefore they pray that they may not be admitted as members of said Convention, being not properly authorized for that purpose. And as in duty bound will pray.

TAUNTON, January 7th, 1788."

Signed by five Selectmen and others.]

tioned in the last return from the said town be entitled to their seats? and the question being put, passed in the affirmative.[9]

The Committee on the remonstrance from certain inhabitants of Williamstown,[10] reported that they did not find any evidence

[9] [The Committee made the following report.

"COMMONWEALTH OF MASSACHUSETTS. *In Convention*, Jan. 12th, 1788. The Committee to whom was committed the two returns from the town of Taunton, report the following state of facts, which is humbly submitted:—

That the first return, dated on the 26th November, is certified by the Selectmen agreeable to the order of the General Court, and is legal.

That on the 17th December, about one hundred and thirty of the inhabitants of said town petitioned the Selectmen for another meeting, to make a further choice, which meeting was called on the 7th January inst., and appears to have been legal; but before they proceeded to the election, the Selectmen withdrew, saying they had done their duty in certifying the person chosen at first meeting, and should not certify any more. The town then proceeded to the election of two more delegates, in addition to the first person chosen, which two persons last chosen are certified by the Moderator and Town Clerk. It further appears to your Committee that the town of Taunton have sufficient number of polls to entitle them to three delegates.

Per order: CALEB DAVIS."]

[10] [The following, with other remonstrances, was received from Williamstown.

"*To the Honorable Chairman and Convention of the Commonwealth of Massachusetts, assembled on the second Wednesday in January, 1788, for the purpose of ratifying or rejecting the Federal Constitution:—*

MAY IT PLEASE YOUR HONORS: We, whose names are hereunder written, freeholders of Williamstown, in the County of Berkshire, beg leave to represent to your honors, the pointed partial election of Capt. Tompson J. Skinner, as a member of your honorable body.

Agreeable to the order or recommendation of the Legislature, in their last session, a meeting was warned, and the inhabitants, qualified to vote, elected Mr. William Young to be their delegate, by a great majority. It was then motioned to dissolve the meeting. The Moderator then replied that the meeting was dissolved. The people then began to draw off, and in the evening, when but few people were present, they proceeded to adjourn the meeting to a future day, and on the day of the adjournment, precisely at the time, a small number only being present, the meeting was opened, a number of persons present put in their votes, and the Moderator turned the hat, before the people from the remote parts of the town could come in, and the Moderator declared Col. Tompson J. Skinner to be chosen.

The town generally being dissatisfied with the proceedings, they voted the adjourned meeting was illegal, and immediately proceeded, as the law directs,

to support the facts stated by the remonstrants, or that the election of the Hon. Tompson J. Skinner, Esq., was illegal. Which report was accepted.

A paper called a remonstrance[11] of seven inhabitants of the

to call a new meeting, which was held on the first day of January instant, when Mr. William Young was elected by a majority of ninety-one votes. We have, therefore, thought proper to state to your honors, the particular circumstances attending the choice of Capt. Skinner, and remonstrate against such illegal proceedings, judging the adoption or rejection of the Federal Constitution to be a matter of too much consequence to be thus trifled with.

WILLIAMSTOWN, Jan. 3d, 1788."]

[11] [The following is a copy of said remonstrance

" *To the Honorable Convention of Delegates, to be convened at Boston, on the second Wednesday in January,* 1788, *for the purpose of taking into consideration the new Federal Constitution :—*

We, the subscribers, inhabitants of the town of Sheffield, in the County of Berkshire, being freeholders, think it our indispensable duty to remonstrate against John Ashley, Jr., Esq., being admitted to a seat in your honorable Convention, as he has not been elected by the said town of Sheffield for that purpose. Your remonstrants have applied to Lemuel Barnard, Esq., in Sheffield, a Justice of Peace for said county, who obstinately refuses to take our depositions respecting the illegal conduct of the Selectmen who presided at the said election. We, therefore, severally and solemnly, declare as follows, viz. :—I, David Clark, and I, Augustin Austin, saw Elias Ransom and Stephen Stevens put in their votes for a delegate, at a meeting of the inhabitants of said town, on the seventeenth day of December last, for the purpose of choosing a delegate, neither of which persons had resided in said town more than seven months. I, Zadok Loomis, do solemnly affirm and declare, that I saw, clearly and plainly, a certain person put two votes into the hat at the meeting before mentioned. I, Isaac Salsburgh, saw a certain other person than that which Zadok Loomis saw, put two votes into the hat at the said meeting. And I, Anthony Austin, saw Jacob Johnson put a vote into the hat at the said meeting, which said Jacob Johnson had not been an inhabitant of the town of Sheffield more than eight months. And furthermore, we, the subscribers, solemnly affirm and declare, that there were nine other persons which voted at the forementioned meeting, for a delegate to the said Convention, which said several persons, we, for several years, have been well acquainted with, and their several circumstances, and that they were not qualified to vote in said meeting, unless they were put into possession of property fraudulently, with a view solely to qualify them to vote in the said meeting.

We think it our duty further to inform your honors, that the said John Ashley, Jr., Esq., being one of the Selectmen, presided in the meeting, and

town of Sheffield, having been read and committed, and there appearing no evidence, nor any person in support of the allegations therein contained,

Ordered, That the said remonstrance be dismissed.

On motion, that the vote for not enjoining the Committee appointed to consider of the expediency of the Convention's removing to another place, &c., to proceed in the business of their commission, be reconsidered, and that the said committee be directed to sit again for further inquiry, the question of reconsideration was put and passed in the negative.

The Committee on the remonstrance[12] of certain inhabitants of Great Barrington, reported, unanimously, that it was not sup-

held the hat for receiving the votes. But instead of sitting it fair and open on the table, as usual, held it in his left hand, pressed close to his breast, receiving the votes from the voters, in general, in his right hand, and putting (or pretending to put) them into the hat himself, at the same time, suffering others to put their hand, *shut*, into the crown of the hat, so that it could not be known whether they put in one vote or ten.

Your remonstrants can truly say that we wish for nothing more than to have a firm, stable, energetic government, both Federal and State, and that these are heartily willing to invest Congress with all those powers which are necessary to enable them to order, direct, protect, secure and defend the United States; but when we see a certain set of men among us not only ravenously greedy to swallow the new Federal Constitution themselves, but making the greatest exertions to ram it down the throats of others, without giving them time to taste it—men, too, who we have reason to imagine expect to have a share in administering the new Federal government—when we see such men fraudulently and basely depriving the people of their right of election, threatening, awing, deceiving, cheating and defrauding the majority in the manner above-mentioned, it is to us truly alarming.

We, therefore, beg leave to protest against the pretended election of John Ashley, Jr., Esq., as a delegate for the town of Sheffield, as he has not been elected by the said town for that purpose, and we humbly trust he will not be permitted to a seat.

SHEFFIELD, 4th January, A. D. 1788."]

[12] [The following is a copy of the remonstrance.

" *To the Honorable Convention of Delegates, to sit at Boston, on the second Wednesday in January, A. D.* 1788, *for the purpose of taking into consideration the new Federal Constitution*:—

We, the subscribers, inhabitants of the town of Great Barrington, in the County of Berkshire, and freeholders, beg leave to remonstrate to your honors

ported, and that the remonstrants have liberty to withdraw the same. Report accepted, and ordered accordingly.

Adjourned to Monday morning, 10 o'clock.

MONDAY, January 14, 1788.

Met according to adjournment.

The Constitution or Frame of Government for the United States of America, as reported by the Convention of Delegates, from the United States, begun and held at Philadelphia, on the

against the partial and illegal conduct of the Selectmen of said town, at a late meeting for choosing a delegate to represent the said town in said Convention, viz.:—The inhabitants of said town, being convened in town meeting, on the twenty-sixth day of November last, for that purpose, the said Selectmen made proclamation to the people to bring in their votes for a delegate. We soon observed that only two persons were voted for, viz.: William Whiting and Elijah Dwight, Esq. In receiving the votes the Selectmen discovered a strong partiality in favor of the last mentioned candidate, particularly in permitting persons of their own party to vote, who, we presume, were by no means legally qualified, and refusing several of the other party who possessed those qualifications required by the Constitution. Notwithstanding which, after sorting and counting the votes, the said Selectmen made proclamation to the town, that they had chosen Dr. William Whiting to be their delegate, and directed him to be called, that it might be known whether he accepted the office; upon which the said Dr. Whiting publicly declared his acceptance. A Committee was then chosen to draw instructions for his conduct at said Convention, and after withdrawing for some time they returned and offered to report their draft, and although this motion was seconded, and strongly urged by a number of the members, yet no regard was paid to it by the said Selectmen; and at this time it was abundantly evident that the Selectmen had a design to embarrass the meeting, and to nullify their former proceedings, although there was a much larger number of voters collected at this meeting than had been known to attend a town meeting in this town for many years, and although no person pretended to make the least objection to the regularity and legality of the election. And to this end, after deciding several votes by their own authority when they were objected to by a number of the members as not being votes, who urged to have them made certain to no purpose, some time late in the evening, when they imagined so many of their opposers to be gone home that they could carry a majority, a motion was made by their partisans, and immediately put, for adjourning the meeting for one week, and although we presume to say there was not a majority of the voters, then present, in the affirmative, and

first Monday of May, 1787, &c., together with the Resolution of Congress, of the 28th of September, 1787, for transmitting the same to the several Legislatures; and the Resolution of the General Court of this Commonwealth, of the 25th day of October, 1787, for calling a Convention, agreeably to the said resolution of Congress, were ordered to be read.

On motion,

Voted, That the Convention, sensible how important it is that the great subject submitted to their determination should be discussed and considered with moderation, candor and deliberation, will enter into a free conversation on the several parts thereof, by paragraphs, until every member shall have had opportunity fully to express his sentiments on the same, after which the Convention will consider and debate at large the question, whether this Convention will adopt and ratify the proposed Constitution, before any vote is taken expressive of the sense of the Convention, upon the whole or any part thereof.[13]

Resolve of the General Court of this Commonwealth, of the 10th of March, 1787, appointing Delegates for the Convention of the States, held at Philadelphia, ordered to be read.

A motion was made and seconded that the Hon. ELBRIDGE

although a number of the members cried out, '*No vote!*' and moved to have it made certain, yet no regard was paid thereto, but after declaring it to be a vote, and that the meeting was adjourned, the Selectmen and Town Clerk took up the papers and left the house.

As we presume this to all intents and purposes to be a dissolution of the meeting, we will not trouble your honors with a detail of the irregular and illegal proceedings of the pretended adjourned meeting, but will refer your honors to the depositions herewith exhibited. Therefore, as the said William Whiting was regularly and legally elected by a considerable majority, in a very full meeting, legally warned and convened for that purpose, and was declared so by the Selectmen who there presided, and as he there (being called upon by the Selectmen) publicly declared his acceptance, and as no objection has, or ever could be, made to the legality of his election, and as the pretended election of his competitor is the reverse in almost every circumstance, we appeal to your honors, who doubtless have a right to determine the legality of the election of your own members, and humbly request that he may be admitted to his seat in the Convention, the refusal of the Selectmen to give him a certificate, and the pretended election of Elijah Dwight, Esq., notwithstanding.

GREAT BARRINGTON, December, 1787."]

[13] [See reconsideration and addition, next day. page 57.]

GERRY, Esq., be requested to take a seat in the House, to answer any question of fact, from time to time, that the Convention may want to ask respecting the passing of the Constitution.

A motion was then made and seconded that the consideration of the said motion subside, to give place to the following, viz.:—

That, whereas, the Hon. Elbridge Gerry, Esq., was a delegate from this Commonwealth in the Convention held at Phila delphia, and whereas, he did not sign the Constitution reported by the said Convention,

Voted, That the said Elbridge Gerry, Esq., be requested to attend this Convention to state the facts and reasons which induced him to decline signing the same.

A motion was then made and seconded, that the consideration of both questions should subside, and the question being put, passed in the negative. The motion that the first question should subside to give place to the second, was then put, and passed in the negative also.

The first motion was then put, and passed in the affirmative.

Adjourned to 3 o'clock, P. M.

AFTERNOON.

Met according to adjournment.

Ordered, That a Committee of three be appointed to wait upon the Hon. Elbridge Gerry, Esq., and acquaint him with the vote of this morning, requesting him to take a seat in the House, to answer any question of fact, from time to time, that the Convention may want to ask respecting the passing of the Constitution.

Mr. Bishop, Mr. Wedgery and Dr. Spring, were appointed on the said committee.

Ordered, That the Secretary be permitted to furnish any printer with the proceedings of the Convention, who may apply for the same for the press.

On the petition of Benjamin Russell and Messrs. Adams and

Nourse, printers, praying to be allowed a place for the purpose of taking minutes of the debates,[14]

Ordered, That the Monitors assign a place for the purpose requested.

The Convention entered upon the consideration of the Constitution or Frame of Government reported by the Convention held at Philadelphia, and having debated thereon, postponed the further consideration of the same to the morning.

Adjourned to Tuesday morning, 10 o'clock.

TUESDAY, January 15, 1788.

Met according to adjournment.

The Committee appointed to wait upon the Hon. Elbridge Gerry, Esq., reported that they had attended the service assigned them.

A motion was made and seconded, that the vote of yesterday prescribing the manner of proceeding in the consideration of the Constitution under debate, should be reconsidered, for the purpose of making the following addition thereto, viz.: "It is, nevertheless, the opinion of this Convention, that if any member conceives any other clause or paragraph of the Constitution to be connected with the one immediately under consideration, that he have full liberty to take up such other clause or paragraph for that purpose," and the question of reconsideration being put, passed in the affirmative.

[14] [The following petition was sent to the Convention by the printers.

"*To the Honorable Convention:*—

The utility, to the public at large, of a faithful account of the proceedings, debates, &c., of the honorable Convention, being taken and published, being generally acknowledged, and the subscribers wishing to furnish, as far as possible, such an account, (and being prevented, by the great numbers who attend in the gallery, from making minutes in that place,) pray this honorable Convention to allow them a place within the walls for that purpose. And, as in duty, shall pray.

BENJ. RUSSELL.
ADAMS & NOURSE.

BOSTON, January 14, 1788."]

On the question whether the addition should be made, it was determined in the affirmative.

A letter[15] from the Hon. Elbridge Gerry, Esq., informing that he would attend the Convention agreeably to their request of yesterday. Read.

The Convention proceeded in the consideration of the Constitution or Frame of Government reported by the Convention held at Philadelphia, and having debated thereon, postponed the further consideration of the same to the afternoon.

Adjourned to 3 o'clock, P. M.

AFTERNOON.

Met according to adjournment.

Ordered, That the Messenger exclude from the floor of the House all persons not belonging to the Convention, except such as are admitted by special order.

The Convention proceeded in the consideration of the Constitution or Frame of Government reported by the Convention held at Philadelphia, and having debated thereon, postponed the further consideration thereof to the morning.

Ordered, That a Committee be appointed to provide a more convenient place for the Convention to sit in.

Mr. Dalton, Mr. Field, Mr. Nasson, Mr. Spooner, Dr. Jarvis, Mr. Dawes and Dr. Taylor, were appointed on the said committee.

Adjourned to Wednesday morning, 10 o'clock.

[15] [Mr. Gerry accepted the request of the Convention, in the following note.

"CAMBRIDGE, 15th January, 1788.

SIR:—I was honored, last evening, with a vote of the honorable Convention, by the hands of their Committee, requesting me 'to take a seat in the house, to answer any question of *facts*, from time to time, that the Convention may want to ask respecting the passing of the Constitution,' and I shall, in compliance with their request, wait on that honorable body, this afternoon, if possible, and continue with them during their session.

I have the honor to be, Sir,

With the highest respect for the Convention and yourself,

Your most obedient and very humble servant,

E. GERRY.

His Excellency, the President of the Convention of Massachusetts."]

WEDNESDAY, January 16, 1788.

Met according to adjournment.

The Convention proceeded in the consideration of the Constitution or Frame of Government reported by the Convention held at Philadelphia, and having debated thereon, postponed the further consideration thereof to the afternoon.

Adjourned to 3 o'clock, P. M.

AFTERNOON.

Met according to adjournment.

The Convention proceeded in the consideration of the Constitution or Frame of Government reported by the Convention held at Philadelphia, and having debated thereon, postponed the further consideration of the same to the morning.

Adjourned to Thursday morning, 10 o'clock.

THURSDAY, January 17, 1788.[16]

Met according to adjournment.

Ordered, That Mr. Carnes, Mr. Shurtliff, Mr. Neal, Mr. Hosmer and Mr. Webber, be a Committee to prepare a pay roll

[16] [We find the following letter to the Convention sent in, this morning, from Gen. Heath.

"ROXBURY, January 17th, 1788.

HONORED SIR:—Having been absent from my duty since yesterday morning, I conceive it to be incumbent on me, to acquaint the honorable Convention, that great indisposition of body has been the only cause of my absence, and that my indisposition is increased by my anxiety to be present on the all-important business now before the Convention. I shall attend the moment my health will permit; but should Providence forbid what I so ardently wish, may the great Counsellor direct the honorable Convention in all their deliberations, and to such a decision on the ultimate question, as shall tend to secure the invaluable rights and privileges of these States, redound to their honor abroad, their safety, prosperity and happiness at home, to the latest generations.

I have the honor to be, with great respect,

Your Honor's, and the honorable Convention's,

Most obedient, humble servant,

W. HEATH.

Hon. WILLIAM CUSHING, Esquire, *Vice-President, &c.*"]

for the travel and attendance of the members of the Convention, and report.

A letter from his Excellency Samuel Huntington, Esq., Governor of Connecticut, enclosing a copy of the doings of the Convention of that State, dated January 9, 1788. Read.

The Convention proceeded in the consideration of the Constitution or Frame of Government reported by the Convention held at Philadelphia, and having debated thereon, postponed the further consideration of the same to the afternoon.

The Committee appointed to provide a more suitable place for the Convention to sit in, made report,[17] that the meeting-house in Long Lane, in Boston, was prepared for that purpose, whereupon,

Voted, That when the Convention adjourn they will adjourn to that place.

Voted, That the said committee return the thanks of the Convention to the said proprietors, for their offer of the use of the said meeting-house.

Adjourned to 3 o'clock, P. M.

[17] [The Committee made the following report.

"The Committee appointed to 'provide a more convenient place for the sitting of the Convention,' have attended to that service, and ask leave to report:—

That they have examined the meeting-house in Long Lane, wherein the Rev. Mr. Belknap officiates, and are unanimously of opinion that the members of the Convention can all be commodiously disposed so as to hear and be heard, by having the pews on the ground floor assigned for that purpose.

That the galleries will well accommodate the spectators.

That gentlemen have offered to put up, at their own expense, a stove, temporary stairs, a temporary porch, and to make other dispositions for the accommodating of the Convention.

And that the Committee of the proprietors of said meeting-house have offered the use of the same during the sitting of the Convention.

That the Committee of the Convention have given directions for the necessary preparations to be made for their reception.

Per order: TRISTRAM DALTON.

January 16, 1788."

"The meeting-house in Long Lane," to which the Convention adjourned on the recommendation of the Committee, is the building still standing, where, since Dr. Jeremy Belknap's time, the pulpit has been filled by Dr. John S.

AFTERNOON.

Met according to adjournment.

Voted, That the pulpit be assigned for the gentlemen of the clergy who may be in town, and that the Monitors provide seats for such as cannot be accommodated there.

Voted, That the stairs under the galleries be assigned for the printers.

The Convention proceeded in the consideration of the Constitution or Frame of Government reported by the Convention held at Philadelphia, and after debate thereon, postponed the further consideration of the same to the morning.

Adjourned to Friday morning, 10 o'clock.

FRIDAY, January 18, 1788.

Met according to adjournment.

The Convention proceeded in the consideration of the Constitution or Frame of Government reported by the Convention

Popkin, the celebrated Dr. William E. Channing, and his colleague, Dr. Ezra S. Gannett, who is the present minister. "Long Lane" took its present name of *Federal Street*, from the circumstance of the meeting of the Convention here. In the *Massachusetts Centinel*, of February 13, 1788, the place, time and authority of this change are given. It appears to have taken place during the progress of the "grand procession" which was called forth in honor of the ratification of the Federal Constitution by the Convention:—

"The following is the form of the ordinance by which the People, on Friday last, altered the name of the avenue called Long Lane, to Federal Street; and which we have obtained from the records, to gratify the curious. It is *verbatim* as read by the Chairman of the Committee that day, in the procession:—

To all persons unto whom these Presents shall come,

GREETING.

BE IT KNOWN—That upon this eighth day of the month of February, in the year of our Lord, one thousand seven hundred eighty-eight, and in the twelfth year of the Independence of the United States of America, WE, THE PEOPLE, in GRAND PROCESSION moving, have ordained, resolved and declared, and by these presents, DO ordain, resolve and declare, THAT for, and in consideration, that the FEDERAL CONSTITUTION

held at Philadelphia, and after debate thereon, postponed the further consideration of the same to the afternoon.

Adjourned to 3 o'clock, P. M.

AFTERNOON.

Met according to adjournment.

Upon an invitation from the Hon. Samuel Adams, Esq., to the delegates in convention, to attend the funeral of his son, to-morrow afternoon, precisely at four o'clock,

Voted, That the Convention will adjourn to-morrow to attend the funeral accordingly.

The Convention proceeded in the consideration of the Constitution or Frame of Government reported by the Convention held at Philadelphia, and after debate,

was by the CONVENTION of the Commonwealth of Massachusetts, ASSENTED to, RATIFIED, fully CONFIRMED and ADOPTED in the Meeting-House, situated and being in the avenue leading from Milk Street to Purchase Street, and commonly called LONG LANE, the said avenue, BE, and it hereby IS, denominated, appellated and christened

FEDERAL STREET.

And we, the PEOPLE aforesaid, do enjoin that all our loving fathers, friends and fellow citizens, observe, duly adhere, and attend to, this our ordinance, resolution or declaration, as they wish to promote justice, preserve our friendship, insure domestic tranquillity, and provide for the diffusion of federal sentiments.

GIVEN under our auspices, this eighth day of February, Anno Domini one thousand seven hundred and eighty-eight, of American sovereignty the twelfth, and the FIRST YEAR *of* OUR *real, political, federal existence.*

THE PEOPLE.

God speed the Constitution!"

The following ditty, originating at the time of the change of the name of the street, is still remembered:—

"Convention did in State House meet—
And, when it would not hold them,
They all went down to Federal Street,
And there the truth was told them."

It must be remembered that the State House in 1788, which was insufficient for the accommodation of an assembly of three hundred delegates, was not the present State House on Beacon Hill, with its spacious Representatives' Chamber, which has accommodated a House of seven hundred—but the "Old State House," the ancient building still standing in the centre of State Street.]

Voted, That the following question be put to the Hon. E. Gerry, Esq., viz.: "Why, in the last requisition of Congress, the portion required of this State was thirteen times as much as of Georgia, and yet we have but eight representatives in the general government, and Georgia has three?" and that he be requested to put his answer in writing.

The further consideration of the said Constitution was postponed to the morning.

Adjourned to Saturday morning, 10 o'clock.

SATURDAY, January 19, 1788.

Met according to adjournment.

The Hon. E. Gerry, Esq., answered the question proposed to him yesterday, as follows, viz.:—

Saturday Morning, 19*th January*.

SIR:—I have no documents in Boston, and am uncertain whether I have any at home, to assist me in answering the question, "Why, in the last requisition of Congress, the portion required of this State was thirteen times as much as of Georgia, and yet we have but eight representatives in the general government, and Georgia has three?" but if my memory serves me, the reason assigned by the committee who made the apportionment for giving such a number to Georgia, was, that that State had of late greatly increased its numbers by migration, and if not then, would soon be entitled to the proportion assigned her. I think it was also said, that the apportionment was made, not by any fixed principle, but by a compromise. These reasons not being satisfactory, a motion was made on the part of Massachusetts, for increasing her number of representatives, but it did not take effect.

I have the honor to be, Sir,

With the highest respect,

Your most obedient, and

Very humble servant,

E. GERRY.

Hon. Mr. CUSHING, *Vice-President of the Convention.*

The Convention proceeded in the consideration of the Constitution or Frame of Government reported by the Convention held at Philadelphia, and, after debate, a motion was made and seconded that the Hon. E. Gerry, Esq., be requested to give what information he may have in his mind respecting the Senate.

A motion was then made and seconded, that the Convention adjourn, and on the question for adjournment, it was determined in the affirmative.

Adjourned to Monday morning, 10 o'clock.

MONDAY, January 21, 1788.

Met according to adjournment.

On motion,

Resolved, as follows, viz.:—Whereas, there is a publication in the *Boston Gazette and the Country Journal*, of this day, as follows, viz.:—

"BRIBERY AND CORRUPTION!!! The most diabolical plan is on foot to corrupt the members of the Convention who oppose the adoption of the new Constitution. Large sums of money have been brought from a neighboring State for that purpose, contributed by the wealthy; if so, is it not probable there may be collections for the same accursed purpose nearer home? CENTINEL."

Resolved, That this Convention will take measures for inquiring into the subject of the said publication, and for ascertaining the truth or falsehood of the suggestion therein contained.

Ordered, That the Messenger be directed to request the printers of the said *Gazette* to appear before this Convention forthwith, to give information respecting the said publication.

The Convention proceeded in the consideration of the Constitution or Frame of Government reported by the Convention held at Philadelphia, and having debated thereon, postponed the rther consideration of the same to the afternoon.

Adjourned to 3 o'clock, P. M.

AFTERNOON.

Met according to adjournment.

The Messenger informed the Convention that he had acquainted the printers of the *Boston Gazette*, &c., of the Order of this morning, respecting them, and was answered that one of them would attend the Convention this afternoon.

The Convention proceeded in the consideration of the Constitution or Frame of Government reported by the Convention held at Philadelphia, and having debated thereon, postponed the further consideration of the same to the morning.

A letter from Benjamin Edes and Son, printers of the *Boston Gazette*, &c., relative to the publication entered this morning. Read, and committed to Mr. Parsons, Mr. Nasson, Mr. Gorham, Mr. Wedgery, Mr. Porter, Mr. Gore, and Mr. Thomas, of Plymouth.

Adjourned to Tuesday morning, 10 o'clock.

TUESDAY, January 22, 1788.

Met according to adjournment.

The Convention proceeded in the consideration of the Constitution or Frame of Government reported by the Convention held at Philadelphia, and, after debate, postponed the further consideration of the same to the afternoon.

A letter from the Hon. E. Gerry, Esq., referred to the afternoon.

Adjourned to 3 o'clock, P. M.

AFTERNOON.

Met according to adjournment.

A letter[18] from the Hon. E. Gerry, Esq., with a state of facts

[18] [The communication of Mr. Gerry, which we copy in this note, will be read with interest.

"CAMBRIDGE, 21st January, 1788.

SIR:—It is with great reluctance that I trespass a moment on the time of the honorable Convention, employed as it is, on a subject of the highest im-

GERRY, Esq., be requested to take a seat in the House, to answer any question of fact, from time to time, that the Convention may want to ask respecting the passing of the Constitution.

A motion was then made and seconded that the consideration of the said motion subside, to give place to the following, viz.:—

That, whereas, the Hon. Elbridge Gerry, Esq., was a delegate from this Commonwealth in the Convention held at Philadelphia, and whereas, he did not sign the Constitution reported by the said Convention,

Voted, That the said Elbridge Gerry, Esq., be requested to attend this Convention to state the facts and reasons which induced him to decline signing the same.

A motion was then made and seconded, that the consideration of both questions should subside, and the question being put, passed in the negative. The motion that the first question should subside to give place to the second, was then put, and passed in the negative also.

The first motion was then put, and passed in the affirmative.

Adjourned to 3 o'clock, P. M.

AFTERNOON.

Met according to adjournment.

Ordered, That a Committee of three be appointed to wait upon the Hon. Elbridge Gerry, Esq., and acquaint him with the vote of this morning, requesting him to take a seat in the House, to answer any question of fact, from time to time, that the Convention may want to ask respecting the passing of the Constitution.

Mr. Bishop, Mr. Wedgery and Dr. Spring, were appointed on the said committee.

Ordered, That the Secretary be permitted to furnish any printer with the proceedings of the Convention, who may apply for the same for the press.

On the petition of Benjamin Russell and Messrs. Adams and

Nourse, printers, praying to be allowed a place for the purpose of taking minutes of the debates,[14]

Ordered, That the Monitors assign a place for the purpose requested.

The Convention entered upon the consideration of the Constitution or Frame of Government reported by the Convention held at Philadelphia, and having debated thereon, postponed the further consideration of the same to the morning.

Adjourned to Tuesday morning, 10 o'clock.

TUESDAY, January 15, 1788.

Met according to adjournment.

The Committee appointed to wait upon the Hon. Elbridge Gerry, Esq., reported that they had attended the service assigned them.

A motion was made and seconded, that the vote of yesterday prescribing the manner of proceeding in the consideration of the Constitution under debate, should be reconsidered, for the purpose of making the following addition thereto, viz.: "It is, nevertheless, the opinion of this Convention, that if any member conceives any other clause or paragraph of the Constitution to be connected with the one immediately under consideration, that he have full liberty to take up such other clause or paragraph for that purpose," and the question of reconsideration being put, passed in the affirmative.

[14] [The following petition was sent to the Convention by the printers.

"*To the Honorable Convention:*—

The utility, to the public at large, of a faithful account of the proceedings, debates, &c., of the honorable Convention, being taken and published, being generally acknowledged, and the subscribers wishing to furnish, as far as possible, such an account, (and being prevented, by the great numbers who attend in the gallery, from making minutes in that place,) pray this honorable Convention to allow them a place within the walls for that purpose. And, as in duty, shall pray.

BENJ. RUSSELL.
ADAMS & NOURSE.

BOSTON, January 14, 1788."]

WEDNESDAY, January 23, 1788.

Met according to adjournment.

A motion was made and seconded, that his Honor the Lieutenant-Governor, the members of the honorable Council, the

uments relative to my consent that the lesser States should have an equal representation in the Senate—that I still entertain the highest respect for the honorable Convention, who, I am sure, will never countenance unfair proceedings—but that I cannot again place myself in a situation where I must hear my conduct misrepresented without the privilege of requesting leave of your honorable body to establish facts and promote justice.

I have the honor to be, Sir,

With the highest respect for the

Honorable Convention and yourself,

Your most obedient and very humble servant,

E. GERRY.

His Honor Judge CUSHING,

Vice-President of the Convention of Massachusetts.

A STATE OF FACTS, REFERRED TO IN THE PRECEDING LETTER.

The business of the Federal Convention having been opened by Governor Randolph, of Virginia, and the outlines of a plan of government having been proposed by him, they were referred to a Committee of the whole house, and after several weeks' debate, the committee reported general principles for forming a Constitution, amongst which were the following:—

'7th. That the right of suffrage in the first branch of the National Legislature' (by which was intended the House of Representatives) 'ought not to be according to the rule established in the Articles of Confederation, but according to some equitable ratio of representation, viz.: in proportion to the whole number of white and other free citizens and inhabitants, of every age, sex and condition, including those bound to servitude for a term of years, and three-fifths of all other persons not comprehended in the foregoing description, except Indians, not paying taxes, in each State.

'8th. That the right of suffrage in the second branch of the National Legislature' (meaning the Senate) 'ought to be according to the rule established for the first.'

In the Committee of the Whole, the eighth article above recited, for which I voted, was carried, if my memory serves me, by six States against five; and when under consideration of the Convention, it produced a ferment, and a separate meeting, as I was informed, of most of the delegates of those five States, the result of which was, a firm determination on their part not to relinquish the right of an equal representation in the Senate, confirmed, as it was, to those States, by the Articles of Confederation. The matter at length became so serious as to threaten a dissolution of the Convention, and a Commit-

Speaker of the House of Representatives, and the Secretary of the Commonwealth, be admitted to seats on the floor of the house, to hear the debates.

A motion was then made and seconded, that the considera-

tee, consisting of a member from each State, was appointed, to meet (if possible) on the ground of accommodation. The members from the three large States of Virginia, Pennsylvania and Massachusetts, were Mr. Mason, Doctor Franklin and myself, and after debating the subject several days, during which time the Convention adjourned, the Committee agreed to the following Report:—

'That the subsequent propositions be recommended to the Convention, on condition that both shall be generally adopted:—

'*First.* That in the first branch of the Legislature, each of the States now in the Union be allowed one member for every forty thousand inhabitants, of the description reported in the seventh resolution of the Committee of the whole House—that each State not containing that number shall be allowed one member—that all writs for raising or appropriating money, and for fixing the salaries of the officers of government of the United States, shall originate in the first branch of the Legislature, and shall not be altered or amended by the second branch—and that no money shall be drawn from the treasury of the United States, but in pursuance of appropriations to be originated by the first branch.

'*Secondly.* That in the second branch of the Legislature each State shall have an equal vote.'

The number of forty thousand inhabitants to every member in the House of Representatives, was not a subject of much debate, or an object insisted on, as some of the Committee were opposed to it. Accordingly, on the 10th of July, a motion was made 'to double the number of representatives, being sixty-five,' and it passed in the negative.

The admission, however, of the smaller States to an equal representation in the Senate, never would have been agreed to by the Committee, or by myself, as a member of it, without the provision 'that all bills for raising or appropriating money, and for fixing the salaries of the officers of government,' should originate in the House of Representatives, and 'not be altered or amended' by the Senate, 'and that no money should be drawn from the treasury' 'but in pursuance of such appropriations.'

This provision was agreed to by the Convention, at the same time and by the same vote, as that which allows to each State an equal voice in the Senate, and was afterwards referred to the Committee of Detail, and reported by them as part of the Constitution, as will appear by documents in my possession. Nevertheless, the smaller States having attained their object of an equal voice in the Senate, a new provision, now in the Constitution, was substituted, whereby the Senate have a right to propose amendments to revenue bills, and the provision reported by the Committee was *effectually destroyed.*

It was conceived by the Committee to be highly unreasonable and unjust

for the travel and attendance of the members of the Convention, and report.

A letter from his Excellency Samuel Huntington, Esq., Governor of Connecticut, enclosing a copy of the doings of the Convention of that State, dated January 9, 1788. Read.

The Convention proceeded in the consideration of the Constitution or Frame of Government reported by the Convention held at Philadelphia, and having debated thereon, postponed the further consideration of the same to the afternoon.

The Committee appointed to provide a more suitable place for the Convention to sit in, made report,[17] that the meeting-house in Long Lane, in Boston, was prepared for that purpose, whereupon,

Voted, That when the Convention adjourn they will adjourn to that place.

Voted, That the said committee return the thanks of the Convention to the said proprietors, for their offer of the use of the said meeting-house.

Adjourned to 3 o'clock, P. M.

[17] [The Committee made the following report.

"The Committee appointed to 'provide a more convenient place for the sitting of the Convention,' have attended to that service, and ask leave to report:—

That they have examined the meeting-house in Long Lane, wherein the Rev. Mr. Belknap officiates, and are unanimously of opinion that the members of the Convention can all be commodiously disposed so as to hear and be heard, by having the pews on the ground floor assigned for that purpose.

That the galleries will well accommodate the spectators.

That gentlemen have offered to put up, at their own expense, a stove, temporary stairs, a temporary porch, and to make other dispositions for the accommodating of the Convention.

And that the Committee of the proprietors of said meeting-house have offered the use of the same during the sitting of the Convention.

That the Committee of the Convention have given directions for the necessary preparations to be made for their reception.

Per order: TRISTRAM DALTON.

January 16, 1788."

"The meeting-house in Long Lane," to which the Convention adjourned on the recommendation of the Committee, is the building still standing, where, since Dr. Jeremy Belknap's time, the pulpit has been filled by Dr. John S.

AFTERNOON.

Met according to adjournment.

Voted, That the pulpit be assigned for the gentlemen of the clergy who may be in town, and that the Monitors provide seats for such as cannot be accommodated there.

Voted, That the stairs under the galleries be assigned for the printers.

The Convention proceeded in the consideration of the Constitution or Frame of Government reported by the Convention held at Philadelphia, and after debate thereon, postponed the further consideration of the same to the morning.

Adjourned to Friday morning, 10 o'clock.

FRIDAY, January 18, 1788.

Met according to adjournment.

The Convention proceeded in the consideration of the Constitution or Frame of Government reported by the Convention

Popkin, the celebrated Dr. William E. Channing, and his colleague, Dr. Ezra S. Gannett, who is the present minister. "Long Lane" took its present name of *Federal Street*, from the circumstance of the meeting of the Convention here. In the *Massachusetts Centinel*, of February 13, 1788, the place, time and authority of this change are given. It appears to have taken place during the progress of the "grand procession" which was called forth in honor of the ratification of the Federal Constitution by the Convention:—

"The following is the form of the ordinance by which the People, on Friday last, altered the name of the avenue called Long Lane, to Federal Street; and which we have obtained from the records, to gratify the curious. It is *verbatim* as read by the Chairman of the Committee that day, in the procession:—

To all persons unto whom these Presents shall come,

GREETING.

BE IT KNOWN—That upon this eighth day of the month of February, in the year of our Lord, one thousand seven hundred eighty-eight, and in the twelfth year of the Independence of the United States of America, WE, THE PEOPLE, in GRAND PROCESSION moving, have ordained, resolved and declared, and by these presents, DO ordain, resolve and declare, THAT for, and in consideration, that the FEDERAL CONSTITUTION

held at Philadelphia, and after debate thereon, postponed the further consideration of the same to the afternoon.

Adjourned to 3 o'clock, P. M.

AFTERNOON.

Met according to adjournment.

Upon an invitation from the Hon. Samuel Adams, Esq., to the delegates in convention, to attend the funeral of his son, to-morrow afternoon, precisely at four o'clock,

Voted, That the Convention will adjourn to-morrow to attend the funeral accordingly.

The Convention proceeded in the consideration of the Constitution or Frame of Government reported by the Convention held at Philadelphia, and after debate,

was by the CONVENTION of the Commonwealth of Massachusetts, ASSENTED to, RATIFIED, fully CONFIRMED and ADOPTED in the Meeting-House, situated and being in the avenue leading from Milk Street to Purchase Street, and commonly called LONG LANE, the said avenue, BE, and it hereby IS, denominated, appellated and christened

FEDERAL STREET.

And we, the PEOPLE aforesaid, do enjoin that all our loving fathers, friends and fellow citizens, observe, duly adhere, and attend to, this our ordinance, resolution or declaration, as they wish to promote justice, preserve our friendship, insure domestic tranquillity, and provide for the diffusion of federal sentiments.

GIVEN under our auspices, this eighth day of February, Anno Domini one thousand seven hundred and eighty-eight, of American sovereignty the twelfth, and the FIRST YEAR *of* OUR *real, political, federal existence.*

THE PEOPLE.

God speed the Constitution!"

The following ditty, originating at the time of the change of the name of the street, is still remembered:—

"Convention did in State House meet—
And, when it would not hold them,
They all went down to Federal Street,
And there the truth was told them."

It must be remembered that the State House in 1788, which was insufficient for the accommodation of an assembly of three hundred delegates, was not the present State House on Beacon Hill, with its spacious Representatives' Chamber, which has accommodated a House of seven hundred—but the "Old State House," the ancient building still standing in the centre of State Street.]

Voted, That the following question be put to the Hon. E. Gerry, Esq., viz.: "Why, in the last requisition of Congress, the portion required of this State was thirteen times as much as of Georgia, and yet we have but eight representatives in the general government, and Georgia has three?" and that he be requested to put his answer in writing.

The further consideration of the said Constitution was postponed to the morning.

Adjourned to Saturday morning, 10 o'clock.

SATURDAY, January 19, 1788.

Met according to adjournment.

The Hon. E. Gerry, Esq., answered the question proposed to him yesterday, as follows, viz.:—

Saturday Morning, 19th January.

SIR:—I have no documents in Boston, and am uncertain whether I have any at home, to assist me in answering the question, "Why, in the last requisition of Congress, the portion required of this State was thirteen times as much as of Georgia, and yet we have but eight representatives in the general government, and Georgia has three?" but if my memory serves me, the reason assigned by the committee who made the apportionment for giving such a number to Georgia, was, that that State had of late greatly increased its numbers by migration, and if not then, would soon be entitled to the proportion assigned her. I think it was also said, that the apportionment was made, not by any fixed principle, but by a compromise. These reasons not being satisfactory, a motion was made on the part of Massachusetts, for increasing her number of representatives, but it did not take effect.

I have the honor to be, Sir,

With the highest respect,

Your most obedient, and

Very humble servant,

E. GERRY.

Hon. Mr. CUSHING, *Vice-President of the Convention.*

The Convention proceeded in the consideration of the Constitution or Frame of Government reported by the Convention held at Philadelphia, and, after debate, a motion was made and seconded that the Hon. E. Gerry, Esq., be requested to give what information he may have in his mind respecting the Senate.

A motion was then made and seconded, that the Convention adjourn, and on the question for adjournment, it was determined in the affirmative.

Adjourned to Monday morning, 10 o'clock.

MONDAY, January 21, 1788.

Met according to adjournment.

On motion,

Resolved, as follows, viz.:—Whereas, there is a publication in the *Boston Gazette and the Country Journal*, of this day, as follows, viz.:—

"BRIBERY AND CORRUPTION!!! The most diabolical plan is on foot to corrupt the members of the Convention who oppose the adoption of the new Constitution. Large sums of money have been brought from a neighboring State for that purpose, contributed by the wealthy; if so, is it not probable there may be collections for the same accursed purpose nearer home? CENTINEL."

Resolved, That this Convention will take measures for inquiring into the subject of the said publication, and for ascertaining the truth or falsehood of the suggestion therein contained.

Ordered, That the Messenger be directed to request the printers of the said *Gazette* to appear before this Convention forthwith, to give information respecting the said publication.

The Convention proceeded in the consideration of the Constitution or Frame of Government reported by the Convention held at Philadelphia, and having debated thereon, postponed the further consideration of the same to the afternoon.

Adjourned to 3 o'clock, P. M.

AFTERNOON.

Met according to adjournment.

The Messenger informed the Convention that he had acquainted the printers of the *Boston Gazette*, &c., of the Order of this morning, respecting them, and was answered that one of them would attend the Convention this afternoon.

The Convention proceeded in the consideration of the Constitution or Frame of Government reported by the Convention held at Philadelphia, and having debated thereon, postponed the further consideration of the same to the morning.

A letter from Benjamin Edes and Son, printers of the *Boston Gazette*, &c., relative to the publication entered this morning. Read, and committed to Mr. Parsons, Mr. Nasson, Mr. Gorham, Mr. Wedgery, Mr. Porter, Mr. Gore, and Mr. Thomas, of Plymouth.

Adjourned to Tuesday morning, 10 o'clock.

TUESDAY, January 22, 1788.

Met according to adjournment.

The Convention proceeded in the consideration of the Constitution or Frame of Government reported by the Convention held at Philadelphia, and, after debate, postponed the further consideration of the same to the afternoon.

A letter from the Hon. E. Gerry, Esq., referred to the afternoon.

Adjourned to 3 o'clock, P. M.

AFTERNOON.

Met according to adjournment.

A letter[18] from the Hon. E. Gerry, Esq., with a state of facts

[18] [The communication of Mr. Gerry, which we copy in this note, will be read with interest.

"CAMBRIDGE, 21st January, 1788.

SIR:—It is with great reluctance that I trespass a moment on the time of the honorable Convention, employed as it is, on a subject of the highest im-

AFTERNOON.

Met according to adjournment.

The Convention proceeded in the consideration of the Co stitution or Frame of Government reported by the Conventi held at Philadelphia, and, after debate thereon, postponed t further consideration of the same to the morning.

Adjourned to Friday morning, 10 o'clock.

FRIDAY, January 25, 1788.

Met according to adjournment.

The Convention proceeded in the consideration of the Co stitution or Frame of Government reported by the Conventi held at Philadelphia, and, after debate thereon, postponed t further consideration of the same to the afternoon.

Adjourned to 3 o'clock, P. M.

AFTERNOON.

Met according to adjournment.

The Convention proceeded in the consideration of the C stitution or Frame of Government reported by the Convent held at Philadelphia, and, after debate thereon, postponed further consideration of the same to the morning.

Adjourned to Saturday morning, 10 o'clock.

SATURDAY, January 26, 178

Met according to adjournment.

The Convention proceeded in the consideration of the C stitution or Frame of Government reported by the Convent held at Philadelphia, and, after debate thereon, postpo the further consideration of the same to Monday morning.

Adjourned to Monday morning, 10 o'clock.

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WEDNESDAY, January 30, 1788.

Met according to adjournment.

The Convention proceeded in the consideration of the Constitution or Frame of Government reported by the Convention held at Philadelphia, and, after debate, postponed the further consideration of the same to the afternoon.

Adjourned to 3 o'clock, P. M.

AFTERNOON.

Met according to adjournment.

The Convention proceeded in the consideration of the Constitution or Frame of Government reported by the Convention held at Philadelphia, and, after debate, postponed the further consideration thereof to the morning.

Adjourned to Thursday morning, 10 o'clock.

THURSDAY, January 31, 1788.

Met according to adjournment.

The Convention proceeded in the consideration of the Constitution or Frame of Government reported by the Convention held at Philadelphia, and, having debated upon all the paragraphs thereof, a motion was made and seconded, that this Convention assent to and ratify the Constitution agreed upon by the Convention of Delegates from the United States, at Philadelphia, on the 17th day of September, 1787, and, after debate on the said motion,

Adjourned to 3 o'clock, P. M.

AFTERNOON.

Met according to adjournment.

Ordered, That the Committee on the Pay Roll make the same up including Tuesday next.

The Convention proceeded in the consideration of the motion

that this Convention do assent to and ratify the Constitution agreed upon by the Convention of Delegates from the United States, at Philadelphia, on the 17th day of September, 1787.

The following was proposed to the Convention by his Excellency the President, viz.:—

COMMONWEALTH OF MASSACHUSETTS.

In Convention of the Delegates of the People of the Commonwealth of Massachusetts, 1788:—

The Convention having impartially discussed and fully considered the Constitution for the United States of America, reported to Congress by the Convention of Delegates from the United States of America, and submitted to us by a Resolution of the General Court of the said Commonwealth, passed the twenty-fifth day of October last past; and acknowledging, with grateful hearts, the goodness of the Supreme Ruler of the Universe, in affording the people of the United States, in the course of his providence, an opportunity, deliberately and peaceably, without fraud or surprise, of entering into an explicit and solemn compact with each other, by assenting to and ratifying a new constitution, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to themselves and their posterity; do, in the name, and in behalf of the people of the Commonwealth of Massachusetts, *assent to* and *ratify* the said CONSTITUTION FOR THE UNITED STATES OF AMERICA.

And as it is the opinion of this Convention that certain amendments and alterations in the said Constitution would remove the fears and quiet the apprehensions of many of the good people of this Commonwealth, and more effectually guard against an undue administration of the federal government; the Convention do therefore recommend that the following alterations and provisions be introduced into the said Constitution:—

First. That it be explicitly declared that all powers not expressly delegated to Congress, are reserved to the several States, to be by them exercised.

Secondly. That there shall be one representative to every thirty thousand persons, until the whole number of representatives amount to ——.

Thirdly. That Congress do not exercise the powers vested in them by the fourth section of the first article, but in cases where a State shall neglect or refuse to make adequate provision for an equal representation of the people, agreeably to this Constitution.

Fourthly. That Congress do not lay direct taxes, but when the moneys arising from the impost and excise are insufficient for the public exigencies.

Fifthly. That Congress erect no company of merchants with exclusive advantages of commerce.

Sixthly. That no person shall be tried for any crime, by which he may incur an infamous punishment, or loss of life, until he be first indicted by a grand jury, except in such cases as may arise in the government and regulation of the land and naval forces.

Seventhly. The Supreme Judicial Federal Court shall have no jurisdiction of causes between citizens of different States, unless the matter in dispute be of the value of ——— dollars, at the least.

Eighthly. In civil actions between citizens of different States, every issue of fact arising in actions at common law, shall be tried by a jury, if the parties, or either of them, request it.

Ninthly. That the words, "without the consent of the Congress," in the last paragraph of the ninth section of the first article, be stricken out.

And the Convention do, in the name and in behalf of the people of this Commonwealth, enjoin it upon their Representatives in Congress, at all times, until the alterations and provisions aforesaid have been considered, agreeably to the fifth article of the said Constitution, to exert all their influence, and use all reasonable and legal methods to obtain a ratification of the said alterations and provisions, in such manner as is provided in the said article.

And that the United States, in Congress assembled, may have due notice of the assent and ratification of the said Constitution, by this Convention, it is

Resolved, That the assent and ratification aforesaid be engrossed on parchment, together with the recommendation and injunction aforesaid, and with this Resolution, and that his Excellency John Hancock, Esquire, President, and the Honorable William Cushing, Esquire, Vice-President of this Convention, transmit the same, countersigned by the Secretary of the Convention, under their hands and seals, to the United States, in Congress assembled.

After debate,

Adjourned to Friday morning, 10 o'clock.

FRIDAY, February 1, 1788.

Met according to adjournment.

The Convention proceeded in the consideration of the motion that this Convention do assent to and ratify the Constitution agreed upon by the Convention of Delegates from the United States, at Philadelphia, on the 17th day of September, 1787, and of the propositions made by his Excellency the President yesterday.

Adjourned to 3 o'clock, P. M.

AFTERNOON.

Met according to adjournment.

On motion,

Voted, That the decision with respect to the final adoption or rejection of the proposed Federal Constitution be not taken before Tuesday next.

Mr. Varnum had leave of absence till Tuesday next.

The Convention proceeded in the consideration of the motion that this Convention assent to and ratify the Constitution agreed upon by the Convention of Delegates from the United States, at Philadelphia, on the 17th day of September, 1787, and of the propositions made by his Excellency the President, yesterday.

Adjourned to Saturday morning, 10 o'clock.

SATURDAY, February 2, 1788.

Met according to adjournment.

The Convention proceeded in the consideration of the motion that this Convention do assent to and ratify the Constitution agreed upon by the Convention of Delegates from the United States, at Philadelphia, on the 17th day of September, 1787, and of the propositions made by his Excellency the President, the 31st ultimo. After debate,

Voted, That a Committee, consisting of members from each county, be appointed to take into consideration the subject of the propositions of his Excellency the President, of the 31st ultimo, at large, and report.

The following gentlemen were then appointed on the said committee, viz.:—

Hon. Mr. Bowdoin, Mr. Southworth, Mr. Parsons, Hon. Mr. Hutchinson, Hon. Mr. Dana, Mr. Winn, Hon. Mr. Strong, Mr. Bodman, Hon. Mr. Turner, Mr. Thomas, of Plymouth, Dr. Smith, Mr. Bourn, Hon. Mr. Spooner, Mr. Bishop, Rev. Dr. Hemmenway, Mr. Barrell, Mr. Mayhew, Hon. Mr. Taylor, Hon. Mr. Sprague, Mr. Fox, Mr. Longfellow, Mr. Sewall, Mr. Sylvester, Mr. Lusk, Hon. Mr. Sedgwick.

Adjourned to Monday next, 3 o'clock, P. M.

MONDAY, February 4, 1788.

Met according to adjournment.

The Committee appointed on the subject of the propositions of his Excellency the President, on Saturday last, reported as follows, viz.:—

The Committee appointed by the Convention to take into consideration the subject of the propositions of his Excellency the President, of the 31st ultimo, at large, and report, beg leave to report the alterations hereafter mentioned, to the said propositions, and that the whole of the said propositions, so altered, be accepted and passed by the Convention, viz.:—

COMMONWEALTH OF MASSACHUSETTS.

In Convention of the Delegates of the People of the Commonwealth of Massachusetts, 1788:—

The Convention having impartially discussed and fully considered the Constitution for the United States of America, reported to Congress by the Convention of Delegates from the United States of America, and submitted to us by a Resolution of the General Court of the said Commonwealth, passed the twenty-fifth day of October last past; and acknowledging with grateful hearts the goodness of the Supreme Ruler of the Universe, in affording the people of the United States, in the course of his providence, an opportunity, deliberately and peaceably, without fraud or surprise, of entering into an explicit and solemn compact with each other, by assenting to and ratifying a new Constitution, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to themselves and their posterity; do, in the name and in behalf of the people of the Commonwealth of Massachusetts, *assent to* and *ratify* the said CONSTITUTION FOR THE UNITED STATES OF AMERICA.

And as it is the opinion of this Convention, that certain amendments and alterations in the said Constitution would remove the fears and quiet the apprehensions of many of the good people of this Commonwealth, and more effectually guard against an undue administration of the federal government, the Convention do therefore recommend that the following alterations and provisions be introduced into the said Constitution.

First. That it be explicitly declared, that all powers not expressly delegated by the aforesaid Constitution, are reserved to the several States, to be by them exercised.

Secondly. That there shall be one representative to every thirty thousand persons, according to the census mentioned in the Constitution, until the whole number of representatives amounts to two hundred.

Thirdly. That Congress do not exercise the power vested in them by the fourth section of the first article, but in cases when a State shall neglect or refuse to make the regulations therein

mentioned, or shall make regulations subversive of the rights of the people to a free and equal representation in Congress, agreeably to the Constitution.

Fourthly. That Congress do not lay direct taxes but when the moneys arising from the impost and excise are insufficient for the public exigencies, nor then, until Congress shall have first made a requisition upon the States, to assess, levy and pay their respective proportions of such requisition, agreeably to the census fixed in the said constitution, in such way and manner as the legislatures of the States shall think best; and, in such case, if any State shall neglect or refuse to pay its proportion, pursuant to such requisition, then Congress may assess and levy such State's proportion, together with interest thereon, at the rate of six per cent. per annum, from the time of payment prescribed in such requisition.

Fifthly. That Congress erect no company with exclusive advantages of commerce.

Sixthly. That no person shall be tried for any crime, by which he may incur an infamous punishment, or loss of life, until he be first indicted by a grand jury, except in such cases as may arise in the government and regulation of the land and naval forces.

Seventhly. The supreme judicial federal court shall have no jurisdiction of causes between citizens of different States, unless the matter in dispute, whether it concern the realty or personalty, be of the value of three thousand dollars, at the least; nor shall the federal judicial powers extend to any actions between citizens of different States, where the matter in dispute, whether it concerns the realty or personalty, is not of the value of fifteen hundred dollars, at the least.

Eighthly. In civil actions between citizens of different States, every issue of fact arising in actions at common law, shall be tried by a jury, if the parties, or either of them, request it.

Ninthly. Congress shall at no time consent that any person holding an office of trust or profit under the United States, shall accept of a title of nobility, or any other title or office, from any king, prince, or foreign state.

And the Convention do, in the name and in behalf of the people of this Commonwealth, enjoin it upon their representa-

tives in Congress, at all times, until the alterations and provisions aforesaid have been considered, agreeably to the fifth article of the said Constitution; to exert all their influence, and use all reasonable and legal methods to obtain a ratification of the said alterations and provisions, in such manner as is provided in the said article.

And that the United States, in Congress assembled, may have due notice of the assent and ratification of the said constitution, by this Convention, it is

Resolved, That the assent and ratification aforesaid be engrossed on parchment, together with the recommendation and injunction aforesaid, and with this Resolution; and that his Excellency John Hancock, Esquire, President, and the Honorable William Cushing, Esquire, Vice-President of this Convention, transmit the same, countersigned by the Secretary of the Convention, under their hands and seals, to the United States, in Congress assembled.

Adjourned to Tuesday morning, 10 o'clock.

TUESDAY, February 5, 1788.

Met according to adjournment.

The report of the Committee on the propositions of his Excellency the President, of the 31st ultimo, read again. It was then moved and seconded,

That to-morrow, 11 o'clock, A. M., be assigned to take the question, by yeas and nays, whether the Convention will accept of the said report.

A motion was then made and seconded, that, for the purpose of informing the good people of this Commonwealth of the principles of the proposed Federal Constitution, and the amendments offered by his Excellency the President, and reported by the Committee, and of uniting their opinions respecting the same, this Convention do adjourn to a future day. After debate,

Adjourned to 3 o'clock, P. M.

AFTERNOON.

Met according to adjournment.

The Convention proceeded in the consideration of the motion, that, for the purpose of informing the good people of this Commonwealth of the principles of the proposed Federal Constitution, and the amendments offered by his Excellency the President, and reported by the Committee, and of uniting their opinions respecting the same, this Convention do adjourn to a future day, and, after debate, the question being put, was determined in the negative, 329 members being present, and 115 only voting in the affirmative.

Adjourned to Wednesday morning, 10 o'clock.

WEDNESDAY, February 6, 1788.

Met according to adjournment.

The Convention proceeded in the consideration of the motion that to-morrow, 11 o'clock, A. M., be assigned to take the question, by yeas and nays, whether this Convention will accept of the report of the Committee made on Monday last; and, the question being put, passed in the negative.

It was then voted that 4 o'clock, P. M., be assigned for that purpose.

A motion was made and seconded, that the report of the Committee made on Monday last, be amended, so far as to add the following to the first article therein mentioned, viz.: "And that the said Constitution be never construed to authorize Congress to infringe the just liberty of the press, or the rights of conscience; or to prevent the people of the United States, who are peaceable citizens, from keeping their own arms; or to raise standing armies, unless when necessary for the defence of the United States, or of some one or more of them; or to prevent the people from petitioning, in a peaceable and orderly manner, the federal legislature, for a redress of grievances; or to subject the people to unreasonable searches and seizures of their

persons, papers or possessions." And the question being put, was determined in the negative.

Adjourned to 3 o'clock, P. M.

AFTERNOON.

Met according to adjournment.

The Convention proceeded to the consideration of the report of the Committee on the subject of the propositions of his Excellency the President, of the 31st ultimo, made on Monday last, and the question, whether this Convention will accept of the said report, being put, was determined by yeas and nays, as follows, viz. :—

YEAS.

His Excellency John Hancock, Esq.	Rev. Thomas Thacher.
	Fisher Ames, Esq.
Hon. James Bowdoin, Esq.	Col. William McIntosh.
Hon. Samuel Adams, Esq.	Capt. John Baxter, Jr.
Hon. William Phillips, Esq.	Hon. Elijah Dunbar, Esq.
Hon. Caleb Davis, Esq.	Mr. Thomas Mann.
Charles Jarvis, Esq.	Mr. George Payson.
John Coffin Jones, Esq.	Hon. Jabez Fisher, Esq.
John Winthrop, Esq.	Mr. Thomas Jones.
Thomas Dawes, Jr., Esq.	Rev. Phillips Payson.
Rev. Samuel Stillman.	Mr. Ebenezer Warren.
Thomas Russell, Esq.	Richard Manning, Esq.
Christopher Gore, Esq.	Edward Pulling, Esq.
Hon. William Heath, Esq.	Mr. William Gray, Jr.
Hon. Increase Sumner, Esq.	Mr. Francis Cabot.
James Bowdoin, Jr., Esq.	Hon. Michael Farley, Esq.
Ebenezer Wales, Esq.	John Choate, Esq.
Rev. Nathaniel Robbins.	Daniel Noyes, Esq.
Hon. Richard Cranch, Esq.	Col. Jonathan Cogswell.
Rev. Anthony Wibird.	Hon. Tristram Dalton, Esq.
Hon. Cotton Tufts, Esq.	Enoch Sawyer, Esq.
Hon. Benjamin Lincoln, Esq.	Ebenezer March, Esq.
Rev. Daniel Shute.	Hon. Rufus King, Esq.
Rev. Joseph Jackson.	Hon. Benjamin Greenleaf, Esq.

Theophilus Parsons, Esq.
Hon. Jonathan Titcomb, Esq.
Hon. George Cabot, Esq.
Mr. Joseph Wood.
Capt. Israel Thorndike.
Isaac Mansfield, Esq.
Jonathan Glover, Esq.
Hon. Azor Orne, Esq.
John Glover, Esq.
Daniel Rogers, Esq.
John Low, Esq.
Capt. William Pearson.
John Carnes, Esq.
Capt. John Burnham.
Mr. William Symmes, Jr.
Bailey Bartlett, Esq.
Capt. Nathaniel Marsh.
Mr. Israel Clark.
Dr. Samuel Nye.
Mr. Enoch Jackman.
Capt. Benjamin Lurvey.
Mr. Willis Patten.
Daniel Thurston, Esq.
Mr. Jacob Herrick.
Mr. Simeon Miller.
Hon. Francis Dana, Esq.
Stephen Dana, Esq.
Hon. Nathaniel Gorham, Esq.
Hon. Joseph Hosmer, Esq.
Hon. Abraham Fuller, Esq.
Capt. Lawson Buckminster.
Benjamin Brown, Esq.
Daniel Whitney, Esq.
Capt. Asahel Wheeler.
Capt. Benjamin Blaney.
Capt. Abraham Bigelow.
Maj. Gen. John Brooks.
Dr. Charles Whitman.
Leonard Williams, Esq.
Hon. Joseph Bradley Varnum, Esq.
Hon. John Pitts, Esq.
Hon. Eleazer Brooks, Esq.
William Pynchon, Esq.
Hon. Caleb Strong, Esq.
Mr. Benjamin Sheldon.
Capt. Lemuel Pomeroy.
Brig. Gen. Elisha Porter.
Hon. Noah Goodman, Esq.
Hon. John Hastings, Esq.
John Ingersoll, Esq.
Mr. Ebenezer Janes.
Abner Morgan, Esq.
Capt. David Shepard.
Mr. Jesse Reed.
Nahum Eager, Esq.
Col. Benjamin Bonney.
Maj. Thomas James Douglass.
Mr. Aaron Fisher.
Mr. Edmund Lazell.
Capt. Thompson Maxwell.
Mr. Elihu Colton.
Joshua Thomas, Esq.
Mr. Thomas Davis.
Mr. John Davis.
Hon. William Cushing, Esq.
Hon. Nathan Cushing, Esq.
Hon. Charles Turner, Esq.
Hon. George Partridge, Esq.
Rev. William Shaw.
Daniel Howard, Esq.
Mr. Hezekiah Hooper.
Capt. Elisha Mitchell.
Mr. Daniel Howard, Jr.
Rev. Isaac Backus.
Isaac Thomson, Esq.
Capt. John Turner.
Mr. Josiah Smith.

William Sever, Jr., Esq.
Hon. Joseph Cushing, Esq.
Rev. Samuel Niles.
Mr. Freman Waterman.
Col. Israel Fearing.
Shearjashub Bourn, Esq.
David Thatcher, Esq.
Capt. Jonathan Howes.
Hon. Solomon Freeman, Esq.
Capt. Kimball Clark.
Rev. Levi Whitman.
Capt. Joseph Palmer.
James Williams, Esq.
Hon. Elisha May, Esq.
Capt. Moses Willmarth.
Col. Sylvester Richmond.
Hon. William Baylies, Esq.
Hon. Thomas Durfee, Esq.
Israel Washburn, Esq.
Hon. Walter Spooner, Esq.
Rev. Samuel West.
Mr. William Almy.
Nathaniel Barrell, Esq.
Rev. Dr. Moses Hemmenway.
Hon. Nathaniel Wells, Esq.
Thomas Cutts, Esq.
Jacob Bradbury, Esq.
Capt. John Low.
Mr. William Mayhew.
Mr. Cornelius Dunham.
Hon. John Sprague, Esq.
Capt. Seth Newton.
Hon. Samuel Baker, Esq.
Maj. David Wilder.
Mr. Matthew Patrick.
Mr. Josiah Goddard.
Capt. Ephraim Wilder.
John K. Smith, Esq.
Mr. John Fox.
Capt. Joseph McLellan.
David Mitchell, Esq.
Samuel Merrill, Esq.
William Thompson, Esq.
Capt. John Dunlap.
Capt. Isaac Snow.
Mr. Joshua Dyer.
Rev. Samuel Perley.
Thomas Rice, Esq.
Mr. David Sylvester.
Mr. Nathaniel Wyman.
Mr. David Gilmore.
William McCobb, Esq.
Capt. Samuel Grant.
Moses Davis, Esq.
David Fales, Esq.
Dummer Sewall, Esq.
John Ashley, Jr., Esq.
Hon. Elijah Dwight, Esq.
Hon. Theodore Sedgwick, Esq.
Hon. Jonathan Smith, Esq.
Hon. Thompson J. Skinner, Esq.
Mr. Elisha Carpenter.
Capt. Daniel Taylor.—187.

NAYS.

Capt. Jedidiah Southworth.
Mr. Nathan Comstock.
Mr. Benjamin Randall.
Mr. Moses Richardson, Jr.
Rev. Noah Alden.
Hon. Israel Hutchinson, Esq.

Capt. Peter Osgood, Jr.
Dr. Thomas Kittridge.
Capt. Thomas Mighill.
Hon. Aaron Wood, Esq.
Capt. Ebenezer Carlton.
Dr. Marshall Spring.
Capt. Timothy Winn.
Mr. William Flint.
Mr. Peter Emerson.
Mr. Jonas Morse.
Maj. Benjamin Sawin.
William Thompson, Esq.
Maj. John Minot.
Capt. Gilbert Dench.
Mr. Jonathan Keep.
Dr. Benjamin Morse.
Joseph Sheple, Esq.
Mr. Obadiah Sawtell.
Mr. Daniel Fisk.
Capt. Daniel Adams.
Capt. John Webber.
Capt. Staples Chamberlin.
Mr. Asa Parlin.
Capt. John Harnden.
Mr. Newman Scarlett.
Mr. Samuel Reed.
Mr. Benjamin Adams.
Maj. Hezekiah Broad.
Capt. Jonathan Green.
Mr. Phineas Gleazen.
Col. Benjamin Ely.
Capt. John Williston.
Capt. Phinehas Stebbins.
Mr. Daniel Cooley.
Mr. Benjamin Eastman.
Mr. Josiah Allis.
Mr. William Bodman.
Mr. Samuel Field.
Mr. Moses Bascom.
Mr. Robert Wilson.
Capt. Consider Arms.
Mr. Malachi Maynard.
Capt. Zacheus Crocker.
Mr. Moses Severance.
Capt. Asa Fisk.
Mr. Phinehas Merrick.
Mr. Adam Clark.
Capt. Nathaniel Whitcomb.
Mr. Timothy Blair.
Mr. Aaron Merrick.
Mr. John Hamilton.
Mr. Clark Cooley.
Mr. John Chamberlin.
Mr. Justus Dwight.
Mr. Samuel Eddy.
Mr. Isaac Pepper.
Capt. John Goldsbury.
Capt. Agrippa Wells.
Mr. Ephraim William.
Mr. Asa Powers.
Capt Silas Fowler.
Mr. John Jennings.
Mr. Jonathan Hubbard.
Mr. Benjamin Thomas.
Mr. Isaac Soul.
Mr. Nathaniel Hammond.
Mr. Abraham Holmes.
Capt. Francis Shurtliff.
Mr. Elijah Bisbee, Jr.
Dr. Thomas Smith.
Mr. Thomas Nye.
Col. Nathaniel Leonard.
Mr. Aaron Pratt.
Capt. Phanuel Bishop.
Maj. Frederick Drown.
William Winsor, Esq.

Mr. Christopher Mason.
Mr. David Brown.
Hon. Holder Slocum, Esq.
Mr. Meletiah Hathaway.
Hon. Abraham White, Esq.
Capt. Ebenezer Tisdell.
Capt. John Pratt.
Capt. Esaias Preble.
Mr. Mark Adams.
Mr. James Neal.
Capt. Elijah Thayer.
Dr. Nathaniel Low.
Mr. Richard Fox Cutts.
Mr. Thomas M. Wentworth.
Maj. Samuel Nasson.
Mr. Moses Ames.
Mr. Jeremiah Emery.
Rev. Pelatiah Tingley.
Mr. David Bigelow.
Edward Thompson, Esq.
Mr. Daniel Forbes.
Mr. Nathaniel Jenks.
Capt. Jeremiah Learned.
Mr. Caleb Curtis.
Mr. Ezra McIntier.
Mr. David Harwood.
Hon. Amos Singletary, Esq.
Col. Samuel Denny.
Mr. James Hathaway.
Mr. Asaph Sherman.
Mr. Abraham Smith.
Capt. Jonathan Bullard.
Capt. John Black.
Capt. John Woods.
Capt. Benjamin Josselyn.
Capt. Stephen Maynard.
Mr. Artemas Brigham.
Capt. Isaac Harrington.
Capt. John Fuller.
Mr. Daniel Putnam.
Dr. Samuel Willard.
Josiah Whitney, Esq.
Mr. Jonathan Day.
Capt. Thomas Marshall Baker.
Capt. Timothy Parker.
Maj. Martin Kinsley.
Rev. Joseph Davis.
Hon. John Taylor, Esq.
Dr. Joseph Wood.
Jonathan Grout, Esq.
Capt. Samuel Peckham.
John Frye, Esq.
Mr. Stephen Holden.
Capt. Joel Fletcher.
Mr. Timothy Fuller.
Mr. Jacob Willard.
Mr. Moses Hale.
Capt. Josiah Wood.
Mr. Joseph Stone.
Mr. David Stearns.
Mr. Jonas Temple.
Daniel Ilsley, Esq.
Mr. Stephen Longfellow, Jr.
Mr. William Wedgery.
Capt. David Murray.
Hon. Samuel Thompson, Esq.
Mr. Jonah Crosby.
Mr. Zacheus Beal.
William Jones, Esq.
Capt. James Carr.
Mr. Joshua Bean.
Mr. Valentine Rathbun.
Mr. Comstock Betts.
Mr. Lemuel Collins.
Capt. Jeremiah Pierce.
Ephraim Fitch, Esq.

Maj. Thomas Lusk.	Ebenezer Peirce, Esq.
Mr. John Hurlbert.	Mr. David Vaughan.
Capt. Ezekiel Herrick.	Capt. Jesse Bradley.
Mr. Joshua Lawton.	Mr. Zenos Noble.
Mr. Timothy Mason.	Mr. John Picket, Jr.—168.

Adjourned to Thursday morning, 10 o'clock.

THURSDAY, February 7, 1788.

Met according to adjournment.

The Committee on the Pay Roll reported the same, amounting to four thousand four hundred and ninety-nine pounds two shillings. Read and accepted, and

Voted, That his Excellency the Governor be, and he hereby is requested, by and with the advice and consent of Council, to draw his warrant on the treasury of this Commonwealth for the aforegoing sum of £4,499 2*s*., to be paid to the members of the Convention, in the proportion mentioned in the said roll.

Voted, That when the business of the Convention shall be completed, the members will proceed to the State House, to proclaim the ratification of the Federal Constitution, and to take an affectionate leave of each other.

Whereas, It is of importance that the good people of this Commonwealth should be informed of the reasons which induced the Convention to assent to and ratify the Constitution for the United States of America, it is therefore

Resolved, That the Hon. George Cabot, Esq., Theophilus Parsons, Esq., Ebenezer Peirce, Esq., and the Hon. Caleb Strong, Esq., together with the Secretary of the Convention, be a Committee to prepare an Address to the People, stating the principles of the said Constitution, the various objections which were made against it, and the answers they received; and explaining the absolute necessity of adopting some energetic system of federal government for the preservation of the Union. And that the same be published and transmitted to every town

within this Commonwealth, one copy thereof to be for the use of each member of this Convention. And that the Convention do recommend to the General Court that they make provision for the publication of the said address, and give such directions for the distribution thereof as that court shall judge proper.

Ordered, That the Secretary of this Convention lodge the journals thereof in the office of the Secretary of this Commonwealth.

Voted, unanimously, That the thanks of this Convention be given to his Excellency the President, for his generous and patriotic efforts, during a painful illness, to unite the members of this body in such a decision upon the subject of their deliberation, as, in his opinion, was essential to the safety and happiness of the people of the United States; and also for the patient attention and perfect impartiality with which his Excellency has presided, while his health permitted him, to regulate their debates.

Voted, unanimously, That his Honor the Vice-President be requested to accept the united thanks of this Convention for the uniform candor and impartiality exhibited by his Honor while presiding in the absence of the President.

Voted, unanimously, That the thanks of this Convention be presented to the reverend clergymen of the town of Boston, who have kindly officiated as Chaplains to this Convention during their session.

Voted, unanimously, That the thanks of this Convention be given to the proprietors of the meeting-house in Long Lane, in Boston, for the accommodation the Convention have received in their house.

Voted, That a Committee of five be chosen to wait upon his Excellency the President, and the honorable Vice-President, with the votes giving the thanks of the Convention to them respectively.

The Hon. Mr. Phillips, the Hon. Mr. Turner, Mr. Ames, the Hon. Mr. Adams, and the Hon. Mr. King, were appointed on the said committee.

Ordered, That the Secretary acquaint the reverend clergymen of Boston, and the proprietors of the meeting-house, in Long Lane, of the votes passed respecting them.

An invitation from certain inhabitants of Boston, requesting the members of the Convention to take refreshment at the Senate Chamber, when the ratification of the Constitution should be declared. Read, and

Voted, That the thanks of the Convention be given to the inhabitants of Boston for their polite invitation, and that the Convention will attend as requested.

The business which was before the Convention being finished, on motion that the Convention adjourn to the State House, for the purpose of declaring the ratification of the Constitution for the United States of America,

Adjourned accordingly.

The Convention assembled again at the State House, where the ratification of the Constitution aforesaid was publicly declared, after which,

This Convention was dissolved.

REPORT OF THE DEBATES

OF THE

CONVENTION OF 1788,

FOR

RATIFYING THE FEDERAL CONSTITUTION.

DEBATES.

IN CONVENTION, January 9, 1788.

On motion,

Ordered, That the Hon. Nathaniel Gorham, Esq., John Carnes, Esq., Dr. Charles Jarvis, Hon. Tristram Dalton, Esq., Hon. Walter Spooner, Esq., Hon. Caleb Davis, Esq., and Hon. John Taylor, Esq., be a Committee to receive the returns of the several towns.

Ordered, That a Committee of five persons be appointed to collect, count and sort the votes for a Secretary.

And the Hon. Caleb Davis, Tristram Dalton, Aaron Wood, Eleazer Brooks and Charles Turner, Esquires, were appointed.

The Convention then proceeded to the choice of a Secretary by ballot, and the votes being taken, it appeared that GEORGE RICHARDS MINOT, Esquire, was chosen, who accepted of the choice, and was duly sworn, to qualify him for exercising the duties of that office.

Voted, That Mr. JACOB KUHN, the Messenger of the General Court, be appointed Messenger to this Convention.

Voted, That five Monitors be chosen.

The following gentlemen were elected, viz.: the Hon. Noah Goodman, Esq., Mr. Phanuel Bishop, Mr. Daniel Cooley, Hon. Azor Orne, Esq., and Mr. Thomas Davis.

Voted, That a Committee of seven be appointed to prepare rules and orders for the regulation of the Convention.

The Hon. Nathaniel Gorham, Esq., Dr. Charles Jarvis, Hon. John Taylor, Esq., Mr. William Wedgery, Hon. Tristram Dalton, Esq., Hon. Theodore Sedgwick, Esq., and James Bowdoin, Jr., Esq., were then appointed on the said committee.

AFTERNOON.

The Convention proceeded to the choice of a President, by ballot, according to assignment, and a Committee of five being appointed to collect, count and sort the votes, it appeared that his Excellency JOHN HANCOCK, Esquire, was chosen.

Voted, That the Convention proceed to the choice of a Vice President.

The Convention then proceeded to the choice of a Vice-President accordingly, by ballot, and a Committee being appointed to collect, count and sort the votes, it appeared that the Hon. WILLIAM CUSHING, Esquire, was chosen, who by request took the chair.

Voted, That a Committee of five be appointed to wait upon his Excellency John Hancock, Esq., and acquaint him that this Convention have made choice of him for their President, and to request his Excellency's acceptance of that appointment.

On motion of the Hon. Mr. Adams,

Voted, That the Convention will attend morning prayers daily, and that the gentlemen of the clergy of every denomination, be requested to officiate in turn.

The members from Boston were appointed to wait upon them and acquaint them thereof.

A vote of the Church in Brattle Street, in Boston, offering the use of their meeting-house to the Convention, being communicated by the Hon. Mr. Bowdoin,

Voted, That a Committee of nine be appointed to view the accommodations of the said meeting-house, and report.

Mr. Sedgwick, Mr. Lincoln, Dr. Taylor, Gen. Brooks, of Lincoln, Dr. Jarvis, Dr. Holten, Mr. Strong, Mr. Nasson, and Mr. Thacher, were then appointed on said committee.

THURSDAY, January 10, 1788.

The Committee appointed to examine the returns of delegates desired a rule, whereby they might determine whether the towns had exceeded their privilege to send members. After a long

debate, a motion was made, that the valuation of the different towns returned in 1784, should be the rule to determine the number.

An offer having been made by the Church in Brattle Street, of that meeting-house, for the use of the Convention, and a Committee having viewed the accommodations, it was

Voted, That when the Convention do adjourn, that it adjourn to meet at 3 o'clock at the meeting-house, in Brattle Street.

FRIDAY, January 11, 1788.

Committees were raised to inquire respecting the contested elections and enjoined to sit immediately.

AFTERNOON.

The house in which the Convention were sitting, on account of the difficulty of hearing, being found inconvenient, a Committee was raised to provide one more suitable—after which it was voted to adjourn to Saturday morning, then to meet in the Representatives' Chamber.

SATURDAY, January 12, 1788.

The honorable Convention met again in the Representatives' Chamber, where they decided all the disputed elections in *favor* of the members returned. The sense of the Convention was twice taken *against* removing to any other place.

MONDAY, January 14, 1788.

The Constitution for the United States of America, as reported by the Convention of Delegates, held at Philadelphia, in May last, together with the resolutions of the General Court of

this Commonwealth, for calling a Convention, agreeably to the recommendation of Congress, were ordered to be read.

On motion of Mr. Strong,

Voted, That this Convention, sensible how important it is that the great subject submitted to their determination should be discussed and considered with moderation, candor and deliberation, will enter into a free conversation on the several parts thereof, by paragraphs, until every member shall have had opportunity to express his sentiments on the same; after which the Convention will consider and debate at large the question, whether this Convention will adopt and ratify the proposed Constitution, before any vote is taken expressive of the sense of the Convention upon the whole or any part thereof.

The resolve of the General Court of this Commonwealth, of March, 1787, appointing Delegates for the Convention of the States, held at Philadelphia, was ordered to be read.

A motion was made and passed, that the Hon. Elbridge Gerry, Esq., be requested to take a seat in the Convention, to answer any questions of fact, from time to time, that the Convention may ask, respecting the passing of the Constitution.

AFTERNOON.

Ordered, That a Committee of three be appointed to wait upon the Hon. Elbridge Gerry, Esq., and acquaint him with the vote of this morning, requesting him to take a seat in the Convention, to answer to any questions of fact, from time to time, that the Convention may ask, respecting the passing the Constitution.

Agreeably to the resolution passed in the forenoon, the Convention proceeded to consider the FIRST SECTION of the Constitution, and after a short conversation, entered upon the discussion of the second section, the first paragraph of which caused a lengthy debate.

The Convention entered upon the consideration of the proposed Constitution, and having debated thereon, through the day, postponed the further consideration thereof to the next morning.

It had been mentioned by some gentlemen, that the introduc-

tion of tyranny into several nations had been by lengthening the duration of their parliaments, or legislative bodies; and the fate of those nations was urged as a caution against lengthening the period for which Congress is to be chosen. The Hon. Mr. SEDGWICK wished to know what were the nations which had been thus deprived of their liberties; he believed they were few in number—in fact, he did not recollect any. After showing by several examples *how* nations had been deprived of their liberties, he continued: Is it not necessary, Mr. President, that the Federal Representatives should be chosen for two years? Annual elections in a single State may be the best for a variety of reasons; but when the great affairs of thirteen States—where their commerce may be extended, and where it is necessary to be restricted—what measure may be most expedient, and best adapted to promote the general prosperity thereof, are to be the objects of deliberation—is not such a period too short? Can a man called into public life divest himself of local concerns, and instantly initiate himself in a general knowledge of such extensive and weighty matters? After several other arguments in favor of the section, he begged the indulgence of the Convention while he made a personal observation: "It has been given out, Sir, by several persons, that I have said the Constitution must go down, right or wrong. I beg leave to declare, Sir, on my honor, that, so far from having made such a declaration, the idea of it has not ever entered my mind."

Mr. G. DENCH wished to know how the representation was secured; as, by the fourth section, Congress were empowered to make or alter the regulation of the times, places and manner of holding elections. Mr. Dench was continuing, but was called to order by Mr. Parsons, who said the subject in debate was the expediency of biennial elections, and that an answer to the gentleman from Hopkinton would more properly be given when the fourth section was under consideration.

Dr. TAYLOR. Mr. President, I am opposed to biennial, and am in favor of annual elections. Annual elections have been the practice of this State ever since its settlement, and no objection to such a mode of electing has ever been made. It has, indeed, Sir, been considered as the safeguard of the liberties of the people; and the annihilation of it, the avenue through

which tyranny will enter. By the articles of confederation, annual elections are provided for, though we have additional securities in a right to recall any, or all of our members from Congress, and a provision for rotation. In the proposed Constitution there is no provision for rotation; we have no right by it to recall our delegates. In answer to the observation, that, by frequency of elections, good men will be excluded, I answer, if they behave well, it is probable they will be continued; but if they behave ill, how shall we remedy the evil? It is possible that rulers may be appointed who may wish to root out the liberties of the people. Is it not, Mr. President, better, if such a case should occur, that at a short period they should politically die, than that they should be proceeded against by impeachment? These considerations, and others, said the Doctor, make me in favor of annual elections; and the further we deviate therefrom, the greater is the evil.

The Hon. Mr. SPRAGUE was in favor of the section as it stood. He thought the same principles ought not to guide us, when considering the election of a body whose jurisdiction was coextensive with a great continent, as when regulating that of one whose concerns are only those of a single State.

Mr. T. DAWES, after a short exordium, said, he had not heard it mentioned by any gentleman who had spoken in the debate, that the right of electing representatives in the Congress, as provided for in the proposed Constitution, will be the acquisition of a new privilege by the people, as it really will be. The people will then be immediately represented in the Federal Government; at present they are not; therefore it will be in favor of the people, if they are even chosen for forty instead of two years: and he adduced many reasons to show that it would not conduce to the interest of the United States or the security of the people, to have them for a shorter period than two years.

The Hon. Mr. WHITE said he was opposed to the section. He thought the security of the people lay in frequent elections. For his part, he would rather they should be for six months than for two years: and concluded by saying, he was in favor of annual elections.

Dr. JARVIS, Gen. BROOKS, Gen. HEATH, and Hon. Mr. TURNER,

each spoke a few words on the subject, when a motion was made to postpone the consideration of the second section until the next morning, which passing, the Convention adjourned.

TUESDAY, January 15, 1788.

A motion was made by Mr. Dana, that the vote of yesterday, prescribing the manner of proceeding in the consideration of the Constitution, should be reconsidered, for the purpose of making the following addition thereto, viz.:—

"It is, nevertheless, the opinion of this Convention, that if any member conceives any other clause or paragraph of the Constitution to be connected with the one immediately under consideration, that he have full liberty to take up such other clause or paragraph, for that purpose."

And the question of reconsideration being put, passed in the affirmative.

On the question, whether the addition should be made, it was determined in the affirmative.

The Hon. Mr. STRONG rose to reply to the inquiry of the Hon. Mr. Adams, why the alteration of elections from annual to biennial was made, and to correct an inaccuracy of the Hon. Mr. Gorham, who, the day before, had said that *that* alteration was made to gratify South Carolina. He said he should then have arisen to put his worthy colleague right; but his memory was not sufficiently retentive to enable him immediately to collect every circumstance. He had since recurred to the original plan. When the subject was at first discussed in convention, some gentlemen were for having the term extended to a considerable length of time; others were opposed to it, as it was contrary to the ideas and customs of the Eastern States; but a majority were in favor of three years, and it was, he said, urged by the Southern States, which are not so populous as the Eastern, that the expense of more frequent elections would be great. He concluded by saying that a general concession produced the

term as it stood in the section, although it was agreeable to the practice of South Carolina.

Mr. AMES. I do not regret, Mr. President, that we are not unanimous upon this question. I do not consider the diversity of sentiment which prevails, as an impediment in our way to the discovery of truth. In order that we may think alike upon this subject at last, we shall be compelled to discuss it, by ascending to the principles upon which the doctrine of representation is grounded.

Without premeditation, in a situation so novel, and awed by the respect which I feel for this venerable assembly, I distrust extremely my own feelings, as well as my competency to prosecute this inquiry. With the hope of an indulgent hearing, I will attempt to proceed. I am sensible, Sir, that the doctrine of frequent elections has been sanctified by antiquity; and is still more endeared to us by our recent experience, and uniform habits of thinking. Gentlemen have expressed their zealous partiality for it. They consider this as a leading question in the debate, and that the merits of many other parts of the Constitution are involved in the decision. I confess, Sir, and I declare, that my zeal for frequent elections is not inferior to their own. I consider it as one of the first securities for popular liberty, in which its very essence may be supposed to reside. But how shall we make the best use of this pledge and instrument of our safety? A right principle, carried to an extreme, becomes useless. It is apparent that a delegation for a very short term, as for a single day, would defeat the design of representation. The election in that case would not seem to the people to be of any importance, and the person elected would think as lightly of his appointment. The other extreme is equally to be avoided. An election for a very long term of years, or for life, would remove the member too far from the control of the people, would be dangerous to liberty, and, in fact, repugnant to the purposes of the delegation. The truth, as usual, is placed somewhere between the extremes, and I believe is included in this proposition: The term of election must be so long, that the representative may understand the interests of the people, and yet so limited, that his fidelity may be secured by a dependence upon their approbation.

Before I proceed to the application of this rule, I cannot forbear to premise some remarks upon two opinions which have been suggested.

Much has been said about the people divesting themselves of power, when they delegate it to representatives; and that all representation is to their disadvantage, because it is but an image, a copy, fainter and more imperfect than the original, the people, in whom the right of power is primary and unborrowed, which is only reflected by their delegates. I cannot agree to either of these opinions. The representation of the people is something more than the people. I know, Sir, but one purpose which the people can effect without delegation, and that is, to destroy a government. That they cannot erect a government is evinced by our being thus assembled on their behalf. The people must govern by a majority, with whom all power resides. But how is the sense of this majority to be obtained? It has been said that a pure democracy is the best government for a small people, who may assemble in person. It is of small consequence to discuss it, as it would be inapplicable to the great country we inhabit. It may be of some use in this argument, however, to consider, that it would be very burdensome, subject to faction and violence; decisions would often be made by surprise, in the precipitancy of passion, by men who either understand nothing, or care nothing about the subject, or by interested men, or those who vote for their own indemnity. It would be a government, not by laws, but by men. Such were the paltry democracies of Greece and Asia Minor, so much extolled, and so often proposed as a model for our imitation. I desire to be thankful that our people are not under any temptation to adopt the advice. I think it will not be denied, that the people are gainers by the election of representatives. They may destroy, but they cannot exercise the powers of government, in person; but by their servants *they* govern. They do not renounce their power; they do not sacrifice their rights; they become the true sovereigns of the country, when they delegate that power, which they cannot use themselves, to their trustees.

I know, Sir, that the people talk about the liberty of nature, and assert that we divest ourselves of a portion of it when we enter into society. This is declamation against matter of fact.

We cannot live without society; and as to liberty, how can I be said to enjoy that which another may take from me when he pleases? The liberty of one depends not so much on the removal of all restraint from him, as on the due restraint upon the liberty of others. Without such restraint, there can be no liberty. Liberty is so far from being endangered or destroyed by this, that it is extended and secured. For I said, that we do not enjoy that which another may take from us. But civil liberty cannot be taken from us, when any one may please to invade it; for we have the strength of the society of our side.

I hope, Sir, that these reflections will have some tendency to remove the ill impressions which are made by proposing to divest the people of their power.

That they may never be divested of it, I repeat that I am in favor of frequent elections. They who commend annual elections, are desired to consider, that the question is, whether biennial elections are a defect in the Constitution; for it does not follow, because annual elections are safe, that biennial are dangerous. Both may be good. Nor is there any foundation for the fears of those who say that if we, who have been accustomed to choose for one year only, now extend it to two, the next stride will be to five, or seven years, and the next for term of life: for this article, with all its supposed defects, is in favor of liberty. Being inserted in the Constitution, it is not subject to be repealed by law. We are sure that it is the worst of the case.

It is a fence against ambitious encroachments, too high and too strong to be passed. In this respect, we have greatly the advantage of the people of England, and of all the world. The law which limits their parliaments is liable to be repealed.

I will not defend this article by saying that it was a matter of compromise in the Federal Convention: it has my entire approbation as it stands. I think that we ought to prefer, in this article, biennial elections to annual, and my reasons for this opinion are drawn from these sources:—

From the extent of the country to be governed,

The objects of their legislation,

And the more perfect security of our liberty.

It seems obvious, that men who are to collect in Congress

from this great territory, perhaps from the Bay of Fundy, or from the banks of the Ohio, and the shore of Lake Superior, ought to have a longer term in office, than the delegates of a single State, in their own legislature. It is not by riding post to and from Congress, that a man can acquire a just knowledge of the true interests of the Union. This term of election is inapplicable to the state of a country as large as Germany, or as the Roman Empire in the zenith of its power.

If we consider the objects of their delegation, little doubt will remain. It is admitted that annual elections may be highly fit for the State legislature. Every citizen grows up with a knowledge of the local circumstances of the State. But the business of the Federal Government will be very different. The objects of their power are few and national. At least two years in office will be necessary to enable a man to judge of the trade and interests of States which he never saw. The time, I hope, will come, when this excellent country will furnish food, and freedom (which is better than food, which is the food of the soul) for fifty millions of happy people. Will any man say that the national business can be understood in one year?

Biennial elections appear to me, Sir, an essential security to liberty. These are my reasons:—

Faction and enthusiasm are the instruments by which popular governments are destroyed. We need not talk of the power of an aristocracy. The people, when they lose their liberties, are cheated out of them. They nourish factions in their bosoms, which will subsist so long as abusing their honest credulity shall be the means of acquiring power. A democracy is a volcano, which conceals the fiery materials of its own destruction. These will produce an eruption, and carry desolation in their way. The people always mean right, and if time is allowed for reflection and information, they will do right. I would not have the first wish, the momentary impulse of the public mind, become law. For it is not always the sense of the people, with whom I admit that all power resides. On great questions, we first hear the loud clamors of passion, artifice and faction. I consider biennial elections as a security that the sober second thought of the people shall be law. There is a calm review of public transactions, which is made by the citizens who have families

and children, the pledges of their fidelity. To provide for popular liberty, we must take care that measures shall not be adopted without due deliberation. The member chosen for two years will feel some independence in his seat. The factions of the day will expire before the end of his term.

The people will be proportionally attentive to the merits of a candidate. Two years will afford opportunity to the member to deserve well of them, and they will require evidence that he has done it.

But, Sir, the representatives are the grand inquisition of the Union. They are, by impeachment, to bring great offenders to justice. One year will not suffice to detect guilt, and to pursue it to conviction; therefore, they will escape, and the balance of the two branches will be destroyed, and the people oppressed with impunity. The senators will represent the sovereignty of the States. The representatives are to represent the people. The offices ought to bear some proportion in point of importance. This will be impossible if they are chosen for one year only.

Will the people then blind the eyes of their own watchmen? Will they bind the hands which are to hold the sword for their defence? Will they impair their own power, by an unreasonable jealousy of themselves?

For these reasons, I am clearly of opinion that the article is entitled to our approbation as it stands; and as it has been demanded, why annual elections were not preferred to biennial, permit me to retort the question, and to inquire, in my turn, what reason can be given, why, if annual elections are good, biennial elections are not better?

The inquiry in the latter part of Mr. Ames's speech being directed to the Hon. Mr. ADAMS, that gentleman said, he only made the inquiry for information, and that he had heard sufficient to satisfy himself of its propriety.

Mr. DENCH said his objections to biennial elections were removed. But he wished to recur to the fourth section, and to inquire, whether *that election was secured*, as, by this section, Congress has power to regulate the time, place and manner of holding it.

[A question now arose, whether the consideration of the

fourth section was in order, and much debate was had thereon —but the propriety, as expressed by a worthy member, of "elucidating scripture by scripture," being generally admitted, the motion made by the Hon. Mr. Dana, passed, which put an end to the conversation.]

The Hon. Mr. BOWDOIN remarked on the idea suggested by the honorable gentleman from Scituate, [Mr. Turner,] who had said that nature pointed out the propriety of *annual* elections, by its *annual* renewal, and observed, that if the revolution of the heavenly bodies is to be the principle to regulate elections, it was not fixed to any period; as in some of the systems it would be very short; and in the last discovered planet it would be eighty of our years. Gentlemen, he said, who had gone before him in the debate, had clearly pointed out the alteration of the election of our federal representatives, from annual to biennial, to be justifiable. Annual elections may be necessary in this State; but in the choice of representatives for the continent, it ought to be longer; nor did he see any danger in its being so. Who, he asked, are the men to be elected? Are they not to be from among us? If they were to be a distinct body, then the doctrine of precaution, which gentlemen use, would be necessary. But, Sir, they can make no laws, nor levy any taxes, but those to which they themselves must be subservient—they themselves must bear a part; therefore, our security is guaranteed, by their being thus subject to the laws, if by nothing else.

Gen. HEATH. Mr. President, I consider myself not as an inhabitant of Massachusetts, but as a citizen of the United States. My ideas and views are commensurate with the continent; they extend in length from the St. Croix to the St. Maria, and in breadth from the Atlantic to the Lake of the Woods; for over all this extensive territory is the Federal Government to be extended.

I should not have risen on this paragraph, had it not been for some arguments which gentlemen have advanced, respecting elections, and which I think tend to make dangerous impressions on the minds of the rising generation. It has been the general opinion that the liberties of the people are principally secured by the frequency of elections, and power returning

again into their hands. The first parliament ever called in Europe, was called by Constantine the Third, and to continue for one year. The worthy gentleman from Boston, [Mr. Dawes,] has mentioned a writer as a good authority, and who, he says, was twenty years compiling his works. I will produce one observation from this celebrated writer (Baron Montesquieu); it is as follows: "The greatness of power must be compensated by the brevity of the duration: most legislators have fixed it to a year; a longer space would be dangerous." Here, Sir, we have not only the opinion of this celebrated writer, but he has also mentioned that most legislators were of the like opinion. But I shall come to our own country, where we shall find in what respect annual elections have always been held. This was the wisdom of our ancestors; it has been confirmed by time: therefore, Sir, before we change it, we should carefully examine whether it be for the better. Local circumstances may render it expedient, but we should take care not to hold up to the rising generation that it is a matter of indifference whether elections are annual or not; and this is what induced me to rise.

It is a novel idea that representatives should be chosen for a considerable time, in order that they may learn their duty. The representative is one who appears in behalf of, and acts for, others; he ought, therefore, to be fully acquainted with the feelings, circumstances and interests of the persons whom he represents, and this is learnt among them, not at a distant court. How frequently, on momentary occasions, do the members of the British Parliament wish to go home and consult their constituents, before they come to a decision. This shows from what quarter they wish to obtain information. With respect to the obtaining a knowledge of the circumstances and abilities of the other States, in order to an equal taxation, this must be acquired from the returns of the number of inhabitants, &c., which are to be found on the files of Congress; for I know not how length of time could furnish other information, unless the members should go from State to State, in order to find out the circumstances of the different States. I think representatives ought always to have a general knowledge of the interests of their constituents, as this alone can enable them properly to represent them.

But, Sir, if there be charms in the paragraph now under consideration, they are these: Congress at present are continually sitting, but under the new Constitution it is intended that Congress shall sit but once annually, for such time as may be necessary, and then adjourn; in this view, every gentleman acquainted with the business of legislation, knows that there is much business in every session, which is taken up and partly considered, but not finished; an adjournment keeps all this business alive, and at the next session it is taken up and completed, to the benefit of the people, in great saving of expense, which would otherwise be lost; for a new legislature would not see through the eyes of those who went before them, consequently all business partly finished would be time lost, to the injury of the public. Therefore, as it seems to be intended that Congress shall have but two sessions in the two years for which the representatives are to be chosen, this consideration has reconciled me to the paragraph, and I am in favor of biennial elections.

The Hon. Mr. TURNER, in reply to the Hon. Mr. Bowdoin, said he thought it an important consideration whether the elections were to be for one year or for two years; he was, he said, greatly in favor of annual elections, and he thought, in the present instance, it would be establishing a dangerous precedent to adopt a change; for, says he, the principle may so operate, as, in time, our elections will be as seldom as the revolution of the star the honorable gentleman talks of.

Mr. DAWES, in answer to Gen. Heath, said, that the passage quoted from Montesquieu, applied to *single* governments, and not to *confederate* ones.

Gen. BROOKS, (of Medford,) in reply to Gen. Heath, said, he recollected the passage of Montesquieu, but he also recollected that that writer had spoken highly of the British government. He then adverted to the objection to this section of Gen. Thompson and others, that biennial elections were a novelty, and said, we were not to consider whether a measure was new, but whether it was proper. Gentlemen had said that it had been the established custom of this country to elect annually: but, he asked, have we not gone from a colonial to an independent situation? We were then provinces, we are now an independent empire; our measures, therefore, says he, must change with

our situation. Under our old government, the objects of legislation were few, and divided; under our present, they are many, and must be united; and it appears necessary that, according to the magnitude and multiplicity of the business, the duration should be extended—he did not, he said, undertake to say how far. He then went into a view of the history of Parliaments. The modern northern nations, he said, had parliaments, but they were called by their kings, and the time, business, &c., of them, depended wholly on their wills. We can, therefore, says he, establish nothing from these. One general remark was, that in the reigns of weak princes, the power and importance of parliaments increased; in the reigns of strong and arbitrary kings, they have always declined; and, says he, they have been *triennial*, and they have been *septennial*. The General combated the idea, *that the liberties of the people depended on the duration of parliament*, with much ability. Do we hear, asked he, that the people of England are deprived of their liberties—or that they are not as free now as when they had short parliaments? On the contrary, do not writers agree that life, liberty and property are no where better secured than in Great Britain—and that this security arises from their parliaments being chosen for seven years. As such is the situation of the people of England, and as no instance can be given wherein biennial elections have been destructive to the liberties of the people, he concluded by asking, whether so much danger is to be apprehended from such elections as gentlemen imagined?

Gen. THOMPSON. Sir, gentlemen have said a great deal about the history of old times. I confess, I am not acquainted with such history—but I am, Sir, acquainted with the history of my own country. I had the honor to be in the general court last year, and am in it this year. I think, Sir, that had the last administration continued one year longer, our liberties would have been lost, and the country involved in blood: not so much, Sir, from their bad conduct, but from the suspicions of the people of them. But, Sir, a change took place; from this change pardons have been granted to the people, and peace is restored. This, Sir, I say, is in favor of frequent elections.

[Gen. Thompson was called to order, on the idea that he reflected on the last administration. A debate ensued, which

ended on the Hon. Mr. White's saying he wished to put out every spark of the fire that appeared to be kindling—therefore moved to adjourn.]

AFTERNOON.

Dr. TAYLOR opened the conversation of the afternoon, by calling upon Gen. Thompson to proceed.

Gen. THOMPSON accordingly said, that, however just, however good, and however upright, the administration may be, there was still a great necessity for annual elections.

He thought a change of election was for the best, even if the administration pleased the people. Do the members of Congress, says he, displease us, we call them home, and they obey. Now where is the difference of their having been elected for one or two years? It is said that the members cannot learn sufficiently in that time. Sir, I hope we shall never send men who are not *learned*. Let these members know their dependence upon the people, and I say it will be a check on them, even if they were not good men. Here the General broke out in the following pathetic apostrophe: "O my country! never give up your annual elections; young men, never give up your jewel!" He apologized for his zeal. He then drew a comparison between the judges, &c., of this country, before the Revolution, who were dependent on Great Britain for their salaries, and those representatives dependent on the continent. He concluded by hoping that these representatives would be annually elected, and thereby feel a greater dependence on the people.

Mr. GORE. It has been observed, that in considering this great and momentous question, we ought to consult the sentiments of wise men, who have written on the subject of government, and thereby regulate our decision on this business. A passage is adduced from Montesquieu, stating, that where the people delegate great power, it ought to be compensated for by the shortness of the duration. Though strictly agreeing with the author, I do not see that it applies to the subject under consideration. This might be perfectly applicable to the ancient governments, where they had no idea of representation, or different checks in the legislature or administration of govern-

ment; but in the proposed Constitution, the powers of the whole government are limited to certain national objects, and are accurately defined; the House of Representatives is but one branch of the system, and can do nothing of itself; Montesquieu, in the sentiment alluded to, must have had in his mind the Epistates of Athens, or the Dictators of Rome, but certainly observations drawn from such sources can have no weight in considering things so essentially different. Again, Sir, gentlemen have said, that annual elections were necessary to the preservation of liberty, and that in proportion as the people of different nations have lengthened, beyond the term of a year, the duration of their representatives, they have lost their liberties, and that all writers have agreed in this. I may mistake, but I know no such thing as a representation of the people in any of the ancient republics. In England, from whence we receive many of our ideas on this subject, King John covenanted with his people to summons certain classes of men to parliament. By the constitution of that country, the king alone can convoke, and he alone, previous to the revolution, could dissolve, the parliament; but in the reign of William III. the patriots obtained an act limiting the duration of parliaments to three years. Soon after, a parliament then sitting and near expiring, a rebellion broke out, and the tories and Jacobites were gaining strength to support the Pretender's claim to the crown. Had they dissolved themselves, and a new parliament been convoked, probably many of the very opponents to the government might have been elected. In that case, they might have effected by law, what they in vain attempted by arms.

The parliament, therefore, extended their duration from triennial to septennial; this was acquiesced in by the people, and the next parliament sanctified the act. No evil, but great good, has been supposed to follow from their duration being thus extended; and if Montesquieu and Doctor Adams think the British Constitution so perfect, how much greater must be our security, when we reflect that our representation is equal; that the powers of the government are so limited, and the checks so nicely appointed. If there be a representation of the people in any other countries, and annual elections therein have been considered as the basis of their freedom, I pray gentlemen to

mention the instances; I confess I know none. People adopt a position which is certainly true, viz.: that elections ought to be frequent; but then, as we have been in the custom of choosing our representatives annually, we have determined annually to be frequent, and that biennially, or any longer term than annual, is not frequent. But if gentlemen will only consider the objects over which this government is to have rule and authority, and the immense and wide extended tracts of country over which the representatives are to pass before they reach the seat of government, I think they will be convinced that two years is a short time for the representatives to hold their office. Further, Sir, we must consider this subject with respect to the general structure of the Constitution. The Senate represents the sovereignty of the States; the House of Representatives the people of the United States. The former have a longer term in their office; it is then necessary that that body which represents the people should have a permanence in their office to resist any operations of the Senate which might be injurious to the people. If they were annual, I submit it to the good sense of this house, whether they would be able to preserve that weight in the system, which the Constitution intended they should have, and which is absolutely necessary for the security of the rights of the people.

The Hon. Mr. KING said, he would not detain the Convention by any exordium, for the purpose of obtaining their attention. He declared, however, that he thought the subject might be freed from certain prejudices connected with its examination, and that thereby the question might receive a fairer decision. This should be the object of his address.

The honorable gentleman observed, that the Convention would do well to lay aside the terms annual or biennial, and consider the subject as it could be supported by principles. Much has been said of the instruction to be derived from history on this point; he said, he presumed to doubt whether this was the case. From the continent of Europe he believed that we could receive no instruction; their parliaments, after the overthrow of the Roman empire, were not constructed upon the principle of a representation of the people. The conqueror of a given district of country was, by the feudal system, the prince or king

of the people within his conquered territories: when he wished the advice of any persons, he summoned usually a number of his principal officers, or the barons of his kingdom, to give him their counsel; but the people, or, as they were degradingly called, the vassals, were never consulted. This certainly cannot be considered as a representation of the people. This mode of assembling a parliament probably obtained in the early stages of the English history; but those who have written on this subject agree that their information is very imperfect relative to the origin of English parliaments; they are not certain who composed the parliament, how long they held their office, or concerning what points they were consulted.

Nothing clear on this subject appears before the twelfth century. Magna Charta is the foundation of the imperfect representation of England. Improvements have since been made in favor of the more equal and certain representation of the people; but it is still extremely imperfect and insecure. Perhaps the people of America are the first, who, by the social compact, ever obtained a right to a full and fair representation in making the laws of their country.

If, then, continued Mr. King, history can afford little or no instruction on the subject, the Convention must determine the question upon its own principles. It seems proper that the representatives should be in office time enough to acquire that information which is necessary to form a right judgment; but that the time should not be so long as to remove from his mind the powerful check upon his conduct that arises from the frequency of elections, whereby the people are enabled to remove an unfaithful representative, or to continue a faithful one. If the question is examined by this standard, perhaps it will appear that an election for two years is short enough for a representative in Congress. If one year is necessary for a representative to be useful in the State legislature, where the objects of his deliberations are local, and within his constant observation; two years does not appear too long, where the objects of deliberation are not confined to one State, but extend to thirteen States; where the complicated interests of united America are mingled with those of foreign nations, and where the great duties of national sovereignty will require his constant attention.

When the representatives of the colony of Massachusetts were first chosen, the country was not settled more than fifteen or twenty miles from Boston. They then held their offices for one year. The emigrants from Massachusetts, who settled on Connecticut River, appointed the Representatives to meet in the General Court of that Colony, for only six months. Massachusetts, although her settlements have extended over almost her whole territory, has continued to depute representatives for only one year, and Connecticut for only six months; but as in each of these colonies, when under the British government, the duties of the representatives were merely local, the great duties of sovereignty being vested in their king, so since the Revolution their duties have continued local, many of the authorities of sovereignty being vested in Congress. It is now proposed to increase the powers of Congress. This will increase the duties of the representatives, and they must have a reasonable time to obtain the information necessary to a right discharge of their office.

It has been said, that our ancestors never relinquished the idea of annual elections. This is an error. In 1643, the colonies of Plymouth, Massachusetts, Connecticut and New Haven, united in a confederacy, which continued for about forty years: each colony sent two commissioners as their representatives, and by the articles they were to be annually elected. About the year 1650, the General Court of Massachusetts instructed their commissioners to propose that the elections, instead of being annual, should be only once in three years. The alteration did not take place, but the anecdote proves that our ancestors have not had an uniform predilection for annual elections.

Mr. King concluded by observing, that on a candid examination of this question, he presumed that the Constitution would not be objected to on account of the biennial election of the House of Representatives.

Judge DANA. Mr. President: The feeble state of my health will not permit me to enter so largely into the debates of this house, as I should otherwise be inclined to do. The intention of my rising, at present, is to express my perfect acquiescence in the sentiments advanced by the honorable gentleman from Newburyport, (Mr. King,) in favor of the expediency of bien-

nial elections of our federal representatives. From my own experience, I think them preferable to annual elections. I have, Sir, seen gentlemen in Congress, and delegates from this State, too, sitting in that honorable body without a voice—without power to open their mouths, or lift up their hands—when matters of the highest importance to their State have been under consideration. I have seen members in Congress, for the space of three months, without power, Sir, waiting for evidence of their reëlection. Besides, Sir, the more *frequent* elections are, the oftener States will be exposed to be deprived of their voice and influence in the national councils. I think annual elections are too short for so extensive an empire. They keep the members always travelling about; and I am of opinion that elections for two years are in no way subversive of the liberties of the people. I, Sir, am one of the people, thank God! and am happy in having an opportunity of expressing my personal satisfaction of such elections. For these, and a variety of other reasons, Mr. Dana suggested that he thought this State ought to be the first to adopt this method of election.

The Hon. Mr. WHITE still thought that Congress might perpetuate themselves, and so reign emperors over us.

Hon. Mr. GORHAM observed, (in continuation of Mr. Dana's observation,) that there was not *now* a Congress, although the time of their meeting had considerably elapsed. Rhode Island, Connecticut, and several other States, had not gone on; that there were now only five States in Congress, when there ought to have been thirteen two months ago.

Mr. CARNES rose to confirm it, and accordingly read part of a letter from the Hon. Mr. Otis, the purport of which was, that there was much business to do—that only five States were represented, and that the probability of an Indian war, &c., evinced the great necessity of the establishment of an efficient federal government, which will be the result of the adoption of the proposed Constitution.

Dr. TAYLOR rose to answer two objections which had been made against annual elections. The distance of place was not so great but the delegates might reach Philadelphia in a fortnight; and as they were answerable to the people for their conduct, he thought it would prevent a vacancy; and concluded by

saying he did not conceive the arguments in favor of biennial elections well founded.

A letter from the Hon. Elbridge Gerry, Esq., informing them that he would attend the Convention, agreeably to their vote of yesterday, was received and read.

On motion of Mr. Nasson,

Ordered, That a Committee be appointed to provide a more convenient place for the Convention to sit in.

WEDNESDAY, January 16, 1788.

The second paragraph of the second section of the first article, was read at the table. A desultory conversation ensued on the mode of conducting the discussion. It was again agreed, that in the debate on any paragraph, gentlemen might discuss any other part they might suppose had relation to that under consideration.

Mr. PIERCE, (from Partridgefield,) after reading the fourth section wished to know the opinion of gentlemen on it; as Congress appeared thereby to have a power to regulate the *time*, *place* and *manner* of holding elections. In respect to the manner, said Mr. Pierce, suppose the legislature of this State should prescribe that the choice of the Federal Representatives should be in the same manner as that of Governor—a majority of all the votes in the State being necessary to make it such—and Congress should deem it an improper *manner*, and should order that it be as practiced in several of the Southern States, where the highest number of votes makes a choice—have they not power by this section so to do? Again, as to the *place*, continues Mr. Pierce, may not Congress direct that the election for Massachusetts shall be held in Boston? And if so, it is possible that previous to the election, a number of electors may meet, agree upon the eight delegates, and propose the same to a few towns in the vicinity, who, agreeing in sentiment, may meet on the day of election, and carry their list by a major vote. He did not, he said, say that this would be the case; but he wished

to know if it was not a possible one. As the Federal Representatives, who are to form the democratical part of the general government, are to be a check on the representatives of the sovereignty, the Senate, he thought the utmost caution ought to be used, to have their elections as free as possible. He observed, that as men have been ever fond of power, we must suppose they ever will continue so; and concluded by observing, that our caution ought in the present case to be greater, as by the proposed Constitution no qualification of property was required in a representative; and it might be in the power of some people thereby to choose a bankrupt for their representative, in order to give such representative employment, or that he might make laws favorable to such a description of people.

Gen. PORTER (from Hadley) endeavored to obviate the objections of Mr. Pierce, by showing the almost *impossibility* of Congress making a law whereby eight men could be elected as Mr. Pierce had supposed; and he thought it equally impossible for the people to choose a person to take care of their property, who had none himself.

Mr. BISHOP rose and observed, that by the fourth section Congress would be enabled to control the elections of representatives. It has been said, says he, that this power was given in order that refractory States may be made to do their duty; but if so, Sir, why was it not so mentioned? If that was the intention, he asked why the clause did not run thus: "The times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the legislature thereof; but" *if any State shall refuse or neglect so to do*, "Congress may," &c. This, he said, would admit of no prevarication. I am, says Mr. Bishop, for giving Congress as much power to do good as possible. It has been said, Mr. President, that the conduct of Rhode Island, in recalling its delegates from Congress, has demonstrated the necessity of such a power being lodged in Congress. I have been informed by the people belonging to Rhode Island, Sir, that that State never has recalled its delegates from Congress. I do not believe it has. And I call upon the gentleman who mentioned it, to authenticate the fact.

The Hon. Mr. KING rose, and assured the Convention that

the State of Rhode Island did, by a solemn resolution, some time since, recall its delegates from Congress.

The Hon Mr. GORHAM confirmed what Mr. King had said, and added, that during the session of the Federal Convention, when seven States only were represented in Congress, application was made by two companies for the purchase of lands, the sale of which would have sunk seven or eight millions of dollars of the continental debt, and that the most pressing letters were sent on to Rhode Island to send on its delegates, but that State refused. The consequence was, the contract could not then be made.

Mr. BISHOP confessed himself convinced of the fact. He proceeded to observe, that if the States shall refuse to do their duty, then let the power be given to Congress to oblige them to do it: but if they do their duty, Congress ought not to have a power to control elections. In an uncontrolled representation, says Mr. Bishop, lies the security of freedom; and he thought by these clauses, that freedom was sported with. In fact, says he, the moment we give Congress this power, the liberties of the yeomanry of this country are at an end. But he trusted they would never give it; and he felt a consolation from the reflection.

The fourth section, which provides that the State legislatures shall prescribe the time, place and manner of holding elections, and that Congress may at any time make or alter them, except in case of Senators, [though not in regular order,] was now under deliberation.

The Hon. Mr. STRONG followed Mr. Bishop, and pointed out the necessity there is for the fourth section. The power, says he, to regulate the elections of our federal representatives must be lodged somewhere. I know of but two bodies wherein it can be lodged—*the Legislatures of the several States*, and *the General Congress*. If the legislative bodies of the States, who must be supposed to know at what time, and in what place and manner, the elections can best be held, should so appoint them, it cannot be supposed that Congress, by the power granted by this section, will alter them. But if a legislature of a State should refuse to make such regulations, the consequence will be, that the representatives will not be chosen, and the general

government will be dissolved. In such case, can gentlemen say that a power to remedy the evil is not necessary to be lodged somewhere? And where can it be lodged but in Congress? I will consider its advantage in another respect: we know, Sir, that a negligence in the appointment of rulers is the characteristic of all nations. In this State, and since the establishment of our present Constitution, the first officers of government have been elected by less than one-tenth part of the electors in the State. We also know that our town meetings, for the choice of officers, are generally attended by an inconsiderable part of the qualified voters. People attend so much to their private interest, that they are apt to neglect this right. Nations have lost their liberties by neglecting their privileges; consequently Congress ought to have an interposing power to awaken the people, when thus negligent. Even supposing, Sir, the provisional clause suggested by the worthy gentleman from Norton, should be added—would not Congress then be the judges whether the elections in the several States were constitutional and proper? If so, it will then stand on the same ground it now does. It appears evident that there must be a general power to regulate general elections. Gentlemen have said, the proposed Constitution was in some places ambiguous. I wish they would point out the particular instances of ambiguity; for my part I think the whole of it is expressed in the plain, common language of mankind. If any parts are not so explicit as they could be, it cannot be attributed to any design; for I believe a great majority of the men who formed it were sincere and honest men.

Mr. BISHOP said, the great difficulty with him was, that the power given by the fourth section was unlimited; and he did not yet see that any advantage would arise from its being so.

Mr. CABOT (of Beverly) not having spoke upon the question of biennial elections of representatives, begged leave to revert to that subject, so far as to add to what had been said by others, that we should consider of the particular business which that body will be frequently called upon to transact, especially in the way of revenue. We should consider, that on a question of supplies of money to support a war, or purchase a treaty, it will be impossible for those representatives to judge of the ex-

pediency or inexpediency of such supplies, until they shall have had time to become acquainted with the general system of federal politics, in its connection or relation to foreign powers; because upon the situation of those must depend the propriety or impropriety of granting supplies. If to this be added a due attention to the easiest way of raising such supplies, it must appear, that biennial elections are as frequent as is consistent with using the power of the representatives, for the benefit of their constituents.

Mr. Cabot then turned to the fourth section, now under debate, and said: It gives me no pain to see the anxiety of different gentlemen concerning the paragraph under consideration, as it evidences a conviction in their minds of what I believe to be true, *that a free and equal representation is the best, if not the only, foundation upon which a free government can be built*, and consequently that the greatest care should be taken in laying it. I am, Sir, one of the people; such I shall continue, and with their feelings I hold "that the right of electing persons to represent the people in the federal government, is an important and sacred right." The opinions that have been offered upon the manner in which the exercise of this right is provided for by the fourth section, satisfy me that we are all solicitous for the same end, and that we only differ as to the means of attaining it; and for my own part I confess that I prize the fourth section as highly as any in the Constitution; because I consider the *democratic* branch of the National Government, the branch chosen immediately by the people, as intended to be a *check* on the *federal* branch, which latter is not an immediate representation of the people of America, and is not chosen by them, but is a representation of the sovereignty of the individual States, and its members delegated by the several State legislatures; and if the State legislatures are suffered to regulate conclusively the elections of the democratic branch, they may, by such an interference, first weaken, and at last destroy, that check; they may at first diminish, and finally annihilate, that control of the General Government which the people ought always to have through their immediate representatives. As one of the people, therefore, I repeat, that, in my mind, the fourth section is to be as highly prized as any in the Constitution.

Mr. PARSONS contended for the vesting in Congress the powers contained in the fourth section, not only as those powers were necessary for preserving the Union, but also for securing to the people their equal rights of election. He considered the subject very fully, but we are able to give our readers very imperfectly the heads of his speech. In the Congress, not only the sovereignty of the States is represented in the Senate, but, to balance their power, and to give the people a suitable and efficient check upon them, the Federal Representatives are introduced into Congress. The legislatures of the several States are the constituents of the Senate, and the people are the constituents of the Representatives. These two branches therefore, have different constituents, and as they are designed as mutual checks upon each other, and to balance the legislative powers, there will be frequent struggles and contentions between them. The Senate will wish to control, depress and render inefficient, the Representatives. The same disposition in the Representatives towards the Senate, will produce the like exertions on their part. The Senate will call upon their constituents, the legislatures, for aid. The Representatives will look up to the people for support. If, therefore, the power of making and altering the regulations defined in this section, are vested absolutely in the legislature, the Representatives will very soon be reduced to an undue dependence upon the Senate, because the power of influencing and controling the election of the representatives of the people, will be exerted without control by the constituents of the senators. He further observed, that there was much less danger in trusting these powers in Congress, than in the State legislatures; for if the Federal Representatives wished to introduce such regulations as would secure to them their places, and a continuance in office, the Federal Senate would never consent, because it would increase the influence and check of the Representatives; and, on the other hand, if the Senate were aiming at regulations to increase their own influence by depressing the Representatives, the consent of the latter never would be obtained, and no other regulations would ever obtain the consent of both branches of the legislature, but such as did not affect their mutual rights and the balance of government—and those regulations will be for the benefit of the people. But a

State legislature, under the influence of their Senators, who would have their fullest confidence, or under the influence of ambitious or popular characters, or in times of popular commotion, and when faction and party spirit run high, would introduce such regulations as would render the rights of the people insecure, and of little value. They might make an unequal and partial division of the State into districts for the election of representatives, or they might even disqualify one-third of the electors. Without these powers in Congress, the people can have no remedy. But the fourth section provides a remedy, a controlling power, in a legislature composed of senators and representatives of twelve States, without the influence of our commotions and factions, who will hear impartially, and preserve and restore to the people their equal and sacred rights of election. Perhaps it then will be objected, that, from the supposed opposition of interests in the Federal legislature, they may never agree upon any regulations; but regulations necessary to the interests of the people can never be opposed to the interests of either of the branches of the Federal legislature, because the interests of the people require that the mutual powers of that legislature should be preserved unimpaired, in order to balance the government. Indeed, if the Congress could never agree on any regulations, then certainly no objection to the fourth section can remain, for the regulations introduced by the State legislatures will be the governing rule of elections, until Congress can agree upon alterations.

Mr. WEDGERY insisted that we had a right to be jealous of our rulers, who ought never to have a power which they could abuse. The fourth section ought to have gone further—it ought to have had the provision in it mentioned by Mr. Bishop. There would then be a mutual check: and he still wished it to be further explained. The worthy gentleman contested the similitude made by the honorable gentleman from Newburyport, between the power to be given to Congress by the fourth section, to compel the States to send representatives, and the power given to the legislature by our own Constitution, to oblige towns to send representatives to the general court, by observing that the case was materially different; as, in the latter, if any town refuses to send representatives, a power of fining such town

only is given. It is in vain, says Mr. Wedgery, to say that rulers are not subject to passions and prejudices. In the last general court, of which I was a member, I would willingly have deprived the three western counties from sending delegates to this house, as I *then* thought it unnecessary. But, Sir, what would have been the consequence? A large part of the State would have been deprived of their dearest privileges. I mention this, Sir, to show the force of passion and prejudice.

The Hon. Mr. WHITE said, we ought to be jealous of rulers. All the godly men we read of have failed—nay, he would not trust "a flock of Moseses." If we give up this section, says he, there is nothing left. Suppose the Congress should say that none should be electors but those worth 50*l.* or an 100*l.* sterling—cannot they do it? Yes, says he, they can; and if any lawyer (alluding to Mr. Parsons) can beat me out of it, I will give him ten guineas.

Col. JONES (of Bristol) thought, by this power to regulate elections, Congress might keep themselves in to all duration.

The Rev. Mr. PERLEY wished Mr. Gerry might be asked some questions on this section.

[But Mr. Gerry was not in the house.]

Mr. J. C. JONES said, it was not right to argue the possibility of the abuse of any measure, against its adoption. The power granted to Congress by the fourth section, says he, is a *necessary* power; it will provide against negligence and dangerous designs. The senators and representatives of this State, Mr. President, are now chosen by a small number of electors; and it is likely we shall grow equally negligent of our Federal elections; or, Sir, a State may refuse to send to Congress its representatives, as Rhode Island has done. Thus we see its necessity. To say that the power may be abused, is saying what will apply to all power. The Federal representatives will represent *the people;* they will be *the people*, and it is not probable they will abuse themselves. Mr. Jones concluded with repeating, that the arguments against this power could be urged against any power whatever.

Dr. JARVIS. Many gentlemen have inferred from the right of regulating elections, by the fourth section being invested in the federal head, that the powers of wresting this essential priv-

ilege from the people would be equally delegated: but it appeared to him, he said, that there was a very material distinction in the two cases: for, however possible it may be that this controlling authority may be abused, it by no means followed, that Congress in any situation could strip the people of their right to a direct representation. If he could believe in this, he should readily join in sentiment with gentlemen on the other side of the house, that this section alone would be a sufficient objection to the Constitution itself. The right of election, founded on the principle of equality, was, he said, the basis on which the whole superstructure was erected. This right was inherent in the people; it was unalienable in its nature, and it could not be destroyed without presuming a power to subvert the Constitution of which this was the principle; and by recurring to the second section it would appear that "*representatives and direct taxes shall be apportioned among the several States according to their respective numbers;*" it equally appeared that thirty thousand inhabitants were entitled to send a representative, and that wherever this number was found they would have a right to be represented in the Federal legislature. If it was argued that Congress might abuse their power, and, by varying the places of election, distress the people, it could only be observed, that such a wanton abuse could not be supposed: but if it could go to the annihilation of the right, he contended the people would not submit. He considered the Constitution as an elective democracy, in which the sovereignty still rested in the people, and he by no means could believe that this article was so alarming in its nature, or dangerous in its tendency, as many gentlemen had supposed.

Mr. HOLMES, in reply to Dr. Jarvis, said, the worthy gentleman's superstructure must fall to the ground, for the Constitution does not provide that every thirty thousand shall send a representative, but that it shall *not exceed* one for every thirty thousand.

THURSDAY, January 17, 1788.

The fourth section still under deliberation.

Hon. Mr. TURNER. Mr. President: I am pleased with the ingenuity of some gentlemen in defence of this section. I am so impressed with the love of liberty so dearly bought, that I heartily acquiesce in compulsory laws, for the people ought to be obliged to attend to their interest. But I do not wish to give Congress a power which they can abuse; and I wish to know whether such a power is not contained in this section. I think it is. I now proceed, Sir, to the consideration of an idea that Congress may alter the place of choosing representatives in the General Congress. They may order that it may be at the extremity of a State, and, by their influence, may there prevail, that persons may be chosen who otherwise would not; by reason that a part of the qualified voters in part of the State would be so incommoded thereby, as to be debarred from their right, as much as if they were bound at home. If so, such a circumstance would militate against the Constitution, which allows every man to vote. Altering the place, will put it so far in the power of Congress as that the representatives chosen will not be the true and genuine representatives of the people, but creatures of the Congress; and so far as they are so, so far are the people deprived of their rights, and the choice will be made in an irregular and unconstitutional manner. When this alteration is made by Congress, may we not suppose whose reëlection will be provided for? Would it not be for those who were chosen before? The great law of self-preservation will prevail. It is true, they might, one time in a hundred, provide for a friend, but most commonly for themselves. But, however honorable the Convention may be who proposed this article, I think it is a genuine power for Congress to perpetuate themselves; a power that cannot be unexceptionably exercised in any case whatever. Knowing the numerous arts that designing men are prone to, to secure their election, and perpetuate themselves, it is my hearty wish that a rotation may be provided for. I respect and revere the Convention who proposed this Constitution. In order that the power given to Congress may be more palatable, some gentlemen are pleased to hold up the idea that we

may be blessed with sober, solid, upright men in Congress. I wish that we may be favored with such rulers; but I fear they will not all, if most, be the best moral or political characters. It gives me pain, and I believe it gives pain to others, thus to characterize the country in which I was born. I will endeavor to guard against any injurious reflections against my fellow-citizens. But they must have their true characters; and if I represent them wrong, I am willing to make concessions. I think that the operation of paper money, and the practice of privateering, have produced a gradual decay of morals, introduced pride, ambition, envy, lust of power, produced a decay of patriotism and the love of commutative justice; and I am apprehensive these are the invariable concomitants of the luxury in which we are unblessedly involved, almost to our total destruction. In the lower ranks of people, luxury and avarice operate to the want of public duty and the payment of debts. These demonstrate the necessity of an energetic government. As people become more luxurious, they become more incapacitated for governing themselves. And are we not so? Alike people, alike prince. But suppose it should so happen that the administrators of this Constitution should be preferable to the corrupt mass of the people, in point of manners, morals and rectitude; power will give a keen edge to the principles I have mentioned. Ought we not, then, to put all checks and controls on governors, for the public safety? Therefore, instead of giving Congress powers they may not abuse, we ought to withhold our hands from granting such as must be abused if exercised. This is a general observation. But to the point: At the time of the Restoration, the people of England were so vexed, harrassed and worn down by the anarchical and confused state of the nation, owing to the Commonwealth not being well digested, that they took an opposite career—they ran mad with loyalty, and would have given Charles any thing he could have asked. Pardon me, Sir, if I say I feel the want of an energetic government, and the dangers to which this dear country is reduced, as much as any citizen of the United States; but I cannot prevail on myself to adopt a government which wears the face of power, without examining it. Relinquishing an hair's breadth in a Constitution is a great deal; for by small degrees has lib-

erty in all nations been wrested from the hands of the people. I know great powers are necessary to be given to Congress, but I wish they may be well guarded.

Judge SUMNER, remarking on Gen. Thompson's frequent exclamation, of "O, my country!" expressed from an apprehension that the Constitution would be adopted, said, that expression might be used with greater propriety should this Convention reject it. The honorable gentleman then proceeded to demonstrate the necessity of the fourth section; the absurdity of the supposition that Congress would remove the places of election to remote parts of the States; combated the idea that Congress would, when chosen, act as bad as possible; and concluded by asking, if a war should take place, (and it was supposable,) if France and Holland should send an army to collect the millions of livres they have lent us in the time of our distresses, and that army should be in possession of the seat of government of any particular State, (as was the case when Lord Cornwallis ravaged Carolina,) and the State legislature could not appoint the elections, is not a power to provide for such elections necessary to be lodged in the general Congress?

Mr. WEDGERY denied the statement of Dr. Jarvis (that every thirty thousand persons can elect one representative) to be just, as the Constitution provides that the number *shall not exceed* one to every thirty thousand. It did not follow, he thought, that the thirty thousand *shall* elect one. But admitting that they have a right to choose one, we will suppose Congress should order an election to be in Boston, in January, and from the scarcity of money, &c., not a fourth part could attend, would not three-quarters of the people be deprived of their right?

Rev. Mr. WEST. I rise to express my astonishment at the arguments of some gentlemen against this section. They have only started *possible* objections; I wish the gentlemen would show us that what they so much deprecate is *probable*. Is it probable that we shall choose men to ruin us? Are we to object to all governments? and because power *may* be abused, shall we be reduced to anarchy and a state of nature? What hinders our State legislature from abusing their power? They may violate the Constitution; they may levy taxes, oppressive and intolerable, to the amount of all our property. An argu-

ment which proves too much, it is said, proves nothing. Some say, Congress may remove the place of elections to the State of South Carolina. This is inconsistent with the words of the Constitution, which says, "that the elections shall be prescribed in *each* State by the legislature thereof," &c., and that representation shall be apportioned according to numbers. It will frustrate the end of the Constitution, and is a reflection on the gentlemen who formed it. Can we, Sir, suppose them so wicked, so vile, as to recommend an article so dangerous? Surely gentlemen who argue these possibilities, show they have a very weak cause. That we may all be free from passions, prepossessions and party spirit, I sincerely hope, otherwise reason will have no effect. I hope there are none here but who are open to conviction, as it is the surest method to gain the suffrages of our consciences. The honorable gentleman from Scituate has told us that the people of England, at the Restoration, on account of the inconveniences of the confused state of the Commonwealth, ran mad with loyalty. If the gentleman means to apply this to us, we ought to adopt this Constitution; for if the people are running mad after an energetic government, it is best to stop now, as, by his rule, they may run further and get a worse one; therefore the gentleman's arguments turn right against himself. Is it possible that imperfect man can make a perfect Constitution? Is it possible that a frame of government can be devised by such weak and frail creatures, but what must savor of that weakness? Though there are some things that I do not like in this Constitution, yet I think it necessary that it should be adopted. For may we not rationally conclude that the persons we shall choose to administer it, will be, in general, good men?

Gen. THOMPSON. Mr. President, I have frequently heard of the abilities and fame of the learned and reverend gentleman last speaking, and now I am witness to them. But, Sir, one thing surprises me: It is, to hear the worthy gentleman insinuate that our Federal rulers will undoubtedly be good men, and that, therefore, we have little to fear from their being intrusted with all power. This, Sir, is quite contrary to the common language of the clergy, who are continually representing mankind as reprobate and deceitful, and that we really grow

worse and worse day after day. I really believe we do, Sir, and I make no doubt to prove it before I sit down, from the Old Testament. When I consider the man that slew the lion and the bear, and that he was a man after God's own heart; when I consider his son, blest with all wisdom, and the errors they fell into, I extremely doubt the infallibility of human nature. Sir, I suspect my own heart, and I shall suspect our rulers.

Dr. HOLTEN thought this paragraph necessary to a complete system of government.

[But the honorable gentleman spoke so low that we could not hear him distinctly throughout.]

Capt. SNOW. It has been said, Mr. President, that there is too much power delegated to Congress by the section under consideration. I doubt it. I think power the hinge on which the whole Constitution turns. Gentlemen have talked about Congress moving the place of elections from Georgia to the Mohawk River, but I never can believe it. I will venture to conjecture we shall have some honest men in our Congress. We read that there were two who brought a *good report*—Caleb and Joshua. Now, if there are but two in Congress who are honest men, and Congress should attempt to do what the gentlemen say they will, (which will be high treason,) they will bring a *report* of it; and I stand ready to leave my wife and family—sling my knapsack—travel westward—to cut their heads off. I, Sir, since the war, have had commerce with six different nations of the globe, and I have inquired in what estimation America is held; and, if I may believe good, honest, credible men, I find this country held in the same light by foreign nations as a well-behaved negro in a gentleman's family. Suppose, Mr. President, I had a chance to make a good voyage, but I tie my captain up to such strict orders that he can go to no other island to sell my vessel, although there is a certainty of his doing well. The consequence is, he returns, but makes a bad voyage, because he had not power enough to act his judgment (for honest men do right). Thus, Sir, Congress cannot save us from destruction, because we tie their hands and give them no power; (I think people have lost their privileges by not improving them;) and I like this power being vested in Congress as well as any paragraph in the Constitution—for as the man is accountable for his

conduct, I think there is no danger. Now, Mr. President, to take all things into consideration, something more must be said to convince me to the contrary.

[Several other gentlemen went largely into the debate on the fourth section, which those in favor of it demonstrated to be necessary: first, as it may be used to correct a negligence in elections; secondly, as it will prevent the dissolution of the government by designing and refractory States; thirdly, as it will operate as a check, in favor of the people, against any designs of the Federal Senate, and their constituents, the State legislatures, to deprive the people of their right of election; and, fourthly, as it provides a remedy for the evil, should any State, by invasion, or other cause, not have it in its power to appoint a place where the citizens thereof may meet to choose their Federal representatives. Those against it urged, that the power is unlimited and unnecessary.]

The Committee appointed to provide a more suitable place for the Convention to sit in, reported that the meeting-house in Long Lane, in Boston, was prepared for that purpose; whereupon,

Voted, That when this Convention adjourn they will adjourn to that place.

AFTERNOON.

The second paragraph of the second section of the first article was reverted to, and some debate had thereon.

Gen. THOMPSON thought there should have been some qualification of *property* in a representative; for, says he, when men have *nothing to lose*, they have *nothing to fear*.

Hon. Mr. SEDGWICK said, that this objection was founded on an anti-democratical principle; and he was surprised that gentlemen who appeared so strenuously to advocate the rights of the people, should wish to exclude from the Federal government a *good* man because he was not a *rich* one.

Mr. KING said that gentlemen had made it a question, why a qualification of property in a representative is omitted, and that they thought the provision of such a qualification necessary. He thought otherwise; he never knew that property was an

index to abilities. We often see men, said he, who, though destitute of property, are superior in knowledge and rectitude. The men who have most injured the country, have most commonly been rich men. Such a qualification was proposed in Convention, but by the delegates of Massachusetts, it was contested that it should not obtain. He observed, that no such qualification is required by the Confederation. In reply to Gen. Thompson's question, why disqualification of age was not added, the honorable gentleman said that it would not extend to all parts of the continent alike. Life, says he, in a great measure depends on climate. What in the southern States would be accounted long life, would be but the meridian in the northern; what here is the time of ripened judgment, is old age there. Therefore the want of such a disqualification cannot be made an objection to the Constitution.

The third paragraph of the second section being read,

Mr. KING rose to explain it. There has, says he, been much misconception on this section. It is a principle of this Constitution, that representation and taxation should go hand in hand. This paragraph states that the number of free persons shall be determined, by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. These persons are the slaves. By this rule is representation and taxation to be apportioned. And it was adopted, because it was the language of all America. According to the Confederation, ratified in 1781, the sums for the general welfare and defence should be apportioned according to the surveyed lands, and improvements thereon, in the several States. But it hath never been in the power of Congress to follow that rule; the returns from the several States being so very imperfect.

Dr. TAYLOR thought that the number of members to be chosen for the House of Representatives, was too small. The whole Union was entitled to send but sixty-five; whereas, by the old Confederation, they send ninety-one; a reduction of thirty per cent. He had heard it objected, that if a larger number were sent, the house would be unwieldy. He thought our House of Representatives, which sometimes consists of one hundred and fifty, was not unwieldy; and if the number of the Federal repre-

sentatives was enlarged to twice sixty-five, he thought it would not be too large. He then proceeded to answer another objection, "that an increase of numbers would be an increase of expense," and by calculation demonstrated that the salaries of the full number he wished, would, in a year, amount only to £2,980—about one penny on a poll; and by this increase, he thought every part of the Commonwealth would be represented. The distresses of the people would thereby be more fully known and relieved.

Mr. WEDGERY asked, if a boy of six years of age was to be considered as a free person?

Mr. KING, in answer, said, all persons born free were to be considered as freemen; and to make the idea of taxation by numbers more intelligible, said, that five negro children of South Carolina are to pay as much tax as the three governors of New Hampshire, Massachusetts and Connecticut.

Mr. GORHAM thought the proposed section much in favor of Massachusetts; and if it operated against any State, it was Pennsylvania, because they have more white persons *bound* than any other. Mr. Gorham corrected an observation of Dr. Taylor's, that the States now send ninety-one delegates to Congress —which was not the case. The States do not, he said, send near that number; and instanced Massachusetts, which sends but four. He concluded by saying, that the Constitution provides for an increase of members, as numbers increase, and that in fifty years there will be three hundred and sixty—in one hundred years, fourteen or fifteen hundred, if the Constitution last so long.

Judge DANA, remarking on the assertions of Dr. Taylor, that the number of representatives was too small, that the whole Union was now entitled to send but sixty-five, whereas by the Confederation they might send ninety-one, a reduction of thirty per cent., said, if the Constitution under consideration was, in fact, what its opposers had often called it, a consolidation of the States, he should readily agree with that gentleman that the representation of the people was much too small; but this was a charge brought against it without any foundation in truth. So far from it, that it must be apparent to every one, that the Federal government springs out of, and can alone be brought

into existence by, the State governments. Demolish the latter, and there is an end of the former. Had the Continental Convention, then, doubled the representation, agreeably to that gentleman's ideas, would not the people of this Commonwealth have been the first to complain of it as an unnecessary burden laid upon them; that, in addition to their own domestic government they had been charged with the support of so numerous a national government. Would they not have contended for the demolition of the one or the other, as being unable to support both. Would they have been satisfied by being told that doubling the representation would yearly amount only "to about one penny upon a poll." Does not the gentleman know that the expense of our own numerous representation has excited much ill will against the government? Has he never heard it said among the people that our public affairs would be as well conducted by half the number of representatives? If he has not, I have, Sir, and believe it to be true. But the gentleman says there is a reduction of thirty per cent. in the Federal representation, as the whole Union can send but sixty-five members, when under the Confederation they may send ninety-one. The gentleman has not made a fair calculation. For if to the sixty-five representatives under the proposed Constitution we add two senators from each State, amounting to twenty-six in all, we shall have the same number, ninety-one, so that in this respect there is no difference. Besides, this representation will increase with the population of the States, and soon become sufficiently large to meet that gentleman's ideas. I would just observe, that by the Confederation this State has a right to send seven members to Congress; yet although the legislature hath sometimes chosen the whole number, I believe at no time have they had or wished to have more than four of them actually in Congress. Have any ill consequences arisen from this small representation in the national council? Have our liberties been endangered by it? No one will say they have. The honorable gentleman drew a parallel between the eastern and southern States, and showed the injustice done the former, by the present mode of apportioning taxes, according to surveyed land and improvements, and the consequent advantage therefrom to the latter, their property not lying in improvements, in buildings, &c.

In reply to the remark of some gentlemen, that the southern States were favored in this mode of apportionment, by having five of their negroes set against three persons in the eastern, the honorable judge observed, that the negroes of the southern States work no longer than when the eye of the driver is on them. Can, asked he, that land flourish like this which is cultivated by the hands of freemen? And are not three of these independent freemen of more real advantage to a State, than five of those poor slaves? As a friend to equal taxation, he rejoiced that an opportunity was presented in this Constitution, to change this unjust mode of apportionment. Indeed, concluded he, from a survey of every part of the Constitution, I think it the best that the wisdom of man could suggest.

Mr. NASSON remarked on the statement of the Hon. Mr. King, by saying, that the honorable gentleman should have gone further, and shown us the other side of the question. It is a good rule that works both ways; and the gentleman should also have told us, that three of our infants in the cradle are to be rated as high as five of the working negroes of Virginia. Mr. Nasson adverted to a statement of Mr. King, who had said, that five negro children of South Carolina were equally ratable as three governors of New England, and wished, he said, the honorable gentleman had considered this question upon the other side, as it would then appear that this State will pay as great a tax for three children in the cradle, as any of the southern States will for five hearty working negro men. He hoped, he said, while we were making a new government, we should make it better than the old one; for if we had made a bad bargain before, as had been hinted, it was a reason why we should make a better one now.

Mr. RANDAL begged leave to answer a remark of the Hon. Mr. Dana, which he thought reflected on the barrenness of the southern States. He spoke from his own personal knowledge, he said, and he could say, that the land in general in those States was preferable to any he ever saw.

Judge DANA rose to set the gentleman right. He said it was not the *quality* of the lands, but the *manner* of tilling it, that he alluded to.

FRIDAY, January 18, 1788.

The third paragraph of the second section of Article I. still under consideration.

Hon. Mr. DALTON opened the conversation with some remarks on Mr. Randal's positive assertions of the fertility of the southern States; he said, from his own observation, and from accounts he had seen, which were better, he could say that the gentleman's remark was not perfectly accurate. The honorable gentleman showed why it was not so, by stating the inconsiderable product of the land; which, though it might in part be owing to the faithlessness and ignorance of the slaves who cultivate it, he said, was in a greater measure owing to the want of heart in the soil.

Mr. RANDAL. Mr. President, I rise to make an observation on the suggestion of the honorable gentleman from Newbury. I have, Sir, travelled in the southern States, and should be glad to compare our knowledge on the subject together. In Carolina, Mr. President, if they do not get more than twenty or thirty bushels of corn from an acre, they think it a small crop. On the low lands they sometimes get forty. I hope, Sir, these great men of eloquence and learning will not try to *make* arguments to make this Constitution go down, right or wrong. An old saying, Sir, is, that *a good thing don't need praising;* but, Sir, it takes the best men in the State to gloss this Constitution, which they say is the best that human wisdom can invent. In praise of it, we hear the reverend clergy, the judges of the supreme court, and the ablest lawyers, exerting their utmost abilities. Now, Sir, suppose all this artillery turned the other way, and these great men would speak half as much against it, we might complete our business, and go home in forty-eight hours. Let us, Sir, consider we are acting for the people, and for ages unborn; let us deal fairly and aboveboard. Every one comes here to discharge his duty to his constituents, and I hope none will be biased by the best orators; because we are not acting for ourselves. I think Congress ought to have power, such as is for the good of the nation, but what it is, let a more able man than I, tell us.

Mr. DAWES said, he was sorry to hear so many objections

raised against the paragraph under consideration. He thought them wholly unfounded; that the black inhabitants of the southern States must be considered either as slaves, and as so much property, or in the character of so many free men; if the former, why should they not be wholly represented? Our own State laws and Constitution would lead us to consider those blacks as free men, and so indeed would our own ideas of natural justice. If then, they are free men, they might form an equal basis for representation as though they were all white inhabitants. In either view, therefore, he could not see that the northern States would suffer, but directly to the contrary. He thought, however, that gentlemen would do well to connect the passage in dispute with another article in the Constitution, that permits Congress in the year 1808, wholly to prohibit the importation of slaves, and in the mean time to impose a duty of ten dollars a head on such blacks as should be imported before that period. Besides, by the new Constitution, every particular State is left to its own option totally to prohibit the introduction of slaves into its own territories. What could the Convention do more? The members of the southern States, like ourselves, have *their* prejudices. It would not do to abolish slavery by an act of Congress, in a moment, and so destroy what our southern brethren consider as property. But we may say, that although slavery is not smitten by an apoplexy, yet it has received a mortal wound, and will die of a consumption.

Mr. Dawes said, the paragraph in debate related only to the rule of apportioning internal taxes, but gentlemen had gone into a consideration of the question, whether Congress should have the power of laying and collecting such taxes; which he thought would be more properly discussed under the section relative to the powers of Congress. But as objections had been suggested, the answers might be hinted as we went along. By the old articles, said he, Congress have a right to ascertain what sums are necessary for the Union, and to appropriate the same; but have no authority to draw such moneys from the States. The States are under an *honorary* obligation to raise the moneys; but Congress cannot compel a compliance with the obligation. So long as we withhold that authority from

Congress, so long we may be said to give it to the other nations. Let us contemplate the loan we have negotiated with the Dutch. Our ambassador has bound us all jointly and severally to pay the money borrowed. When pay-day shall come, how is the money to be raised? Congress cannot collect it. If any one State shall disobey a requisition, the Dutch are left in such a case to put their own demand in force for themselves. They must raise by arms what we are afraid Congress shall collect by the law of peace. There is a prejudice, said Mr. Dawes, against direct taxation, which arises from the manner in which it has been abused by the errors of the old Confederation. Congress had it not in their power to draw a revenue from commerce, and therefore multiplied their requisitions on the States. Massachusetts, willing to pay her part, made her own trade-law, on which the trade departed to such of our neighbors as made no such impositions on commerce. Thus we lost what little revenue we had, and our only recourse was to a direct taxation. In addition to this, foreign nations, knowing this inability of Congress, have on that account been backward in their negotiations, and have lent us money at a premium which bore some proportion to the risk they had of getting payment; and this extraordinary expense has fallen at last on the land. Some gentlemen have said that Congress may draw their revenue wholly by direct taxes. But they cannot be induced so to do; it is easier for them to have resort to the impost and excise. But as it will not do to over-burden the impost, (because that would promote smuggling, and be dangerous to the revenue,) therefore Congress should have the power of applying, in extraordinary cases, to direct taxation. War may take place, in which case it would not be proper to alter those appropriations of impost which may be made for peace establishments. It is inexpedient to divert the public funds; the power of direct taxation would in such circumstances be a very necessary power. As to the rule of apportioning such taxes, it must be by the quantity of lands, or else in the manner laid down in the paragraph under debate. But the quantity of lands is an uncertain rule of wealth. Compare the lands of different nations of Europe: some of them have great comparative wealth, and less quantities of land, while others have

more lands and less wealth. Compare Holland with Germany. The rule laid down in the paragraph is the best that can be obtained for the apportionment of the little direct taxes which Congress will want.

AFTERNOON.

Messrs. KING, GORE, PARSONS and JONES (of Boston) spoke of the advantage to the northern States, the rule of apportionment in the third paragraph (still under debate) gave to them—as also the Hon. Judge DANA, the sketch of whose speech is as follows:

The learned judge began with answering some objections to this paragraph, and urging the necessity of Congress being vested with power to levy direct taxes on the States; and it was not to be supposed that they would levy such, unless the impost and excise should be found insufficient in case of a war. If, says he, a part of the Union is attacked by a foreign enemy, and we are disunited, how is it to defend itself? Can it by its own internal force? In the late war, this State singly was attacked, and obliged to make the first defence. What has happened may happen again. The State, oppressed, must exert its whole power, and bear the whole charge of the defence: but common danger points out for common exertion; and this Constitution is excellently designed to make the danger equal. Why should one State expend its blood and treasure for the whole? Ought not a controlling authority to exist, to call forth, if necessary, the whole force and wealth of all the States? If disunited, the time may come when we may be attacked by our natural enemies. Nova Scotia and New Brunswick, filled with tories and refugees, stand ready to attack and devour these States, one by one. This will be the case, if we have no power to draw forth the wealth and strength of the whole, for the defence of a part. Then shall we, continues the honorable gentleman, see, but too late, the necessity of a power being vested somewhere, that could command that wealth and strength when wanted. I speak with earnestness, said he, but it is for the good of my native country. By God and nature made equal, it is with remorse I have heard it suggested by

some, that those gentlemen who have had the superior advantages of education, were enemies to the rights of their country. Are there any among this honorable body, who are possessed of minds capable of such narrow prejudices? If there are, it is in vain to reason with them; we had better come to a decision and go home. After dilating on this matter a short time, the learned judge begged gentlemen to look around them, and see who were the men that composed the assembly. Are they not, he asked, men who have been foremost in the cause of their country, both in the cabinet and in the field? and who, with halters about their necks, boldly and intrepidly advocated the rights of America, and of humanity, at home and in foreign countries? And are THEY not to be trusted? Direct taxation is a tremendous idea: but may not *necessity* dictate it to be unavoidable? We all wish to invest Congress with more power. We disagree only in the quantum, and manner in which Congress shall levy taxes on the States. A capitation tax is abhorrent to the feelings of human nature, and I venture to trust will never be adopted by Congress. The learned judge pointed out, on various grounds, the utility of the power to be vested in the Congress, and concluded by observing, that the proposed Constitution was the best that could be framed; that, if adopted, we shall be a great and happy nation; if rejected, a weak and despised one: we shall fall as the nations of ancient times have fallen; that this was his firm belief; and, says he, I would rather be annihilated than give my voice for, or sign my name to, a Constitution, which in the least should betray the liberties or interests of my country.

Mr. WEDGERY. I hope, Sir, the honorable gentleman will not think hard of it, if we ignorant men cannot see as clear as he can. The strong must bear with the infirmities of the weak; and it must be a weak mind indeed that could throw such illiberal reflections against gentlemen of education, as the honorable gentleman complains of. To return to the paragraph. If Congress, continues Mr. Wedgery, have this power of taxing directly, it will be in their power to enact a poll tax. Can gentlemen tell why they will not attempt it, and by this method make the poor pay as much as the rich?

Mr. DENCH was at loss to know how Congress could levy the

tax, in which he thought the difficulty of many consisted; yet had no doubt but that Congress would direct that these States should pay it in their own way.

Hon. Mr. FULLER begged to ask Mr. Gerry—"Why, in the last requisition of Congress, the portion required of this State was thirteen times as much as of Georgia, and yet we have but eight representatives in the general government, and Georgia has three?" Until this question was answered, he was at a loss to know how taxation and representation went hand in hand.

[It was then voted, that this question be asked Mr. Gerry. A long and desultory debate ensued on the manner in which the answer should be given. It was at last voted that Mr. Gerry reduce his answer to writing.]

SATURDAY, January 19, 1788.

The Hon. Mr. SINGLETARY thought we were giving up all our privileges, as there was no provision that men in power should have any religion; and though he hoped to see Christians, yet by the Constitution, a papist or an infidel were as eligible as they. It had been said that men had not degenerated. He did not think men were better now than when men after God's own heart did wickedly. He thought in this instance we were giving great power to—we know not whom.

Gen. BROOKS (of Medford). If good men are appointed, government will be administered well. But what will prevent bad men from mischief, is the question. If there should be such in the Senate, we ought to be cautious of giving power; but when that power is given with proper checks, the danger is at an end. When men are answerable, and within the reach of responsibility, they cannot forget that their political existence depends upon their good behavior. The Senate can frame no law but by consent of the representatives, and is answerable to to that house for its conduct. If their conduct excites suspicion, they are to be impeached—punished (or prevented from holding any office, which is a great punishment.) If these

checks are not sufficient, it is impossible to devise such as will be so.

[Mr. Gerry's answer to Mr. Fuller's question was read. The purport was, that Georgia had increased in its numbers by migration, and if it had not then, would soon be entitled to the proportion assigned her.]

Hon. Mr. KING. It so happened that I was both of the Convention and Congress at the same time, and if I recollect right, the answer of Mr. Gerry does not materially vary. In 1778, Congress required the States to make a return of the houses and lands surveyed. But one State only complied therewith—New Hampshire. Massachusetts did not. Congress consulted no rule; it was resolved that the several States should be taxed according to their ability, and if it appeared any State had paid more than her just quota, it should be passed to the credit of that State, with lawful interest.

Mr. DALTON said we had obtained a great deal by the new Constitution. By the Confederation, each State had an equal vote. Georgia is now content with three-eighths of the voice of Massachusetts.

Col. JONES (of Bristol) objected to the length of time. If men continue in office four or six years, they will forget their dependence on the people, and be loth to leave their places. Men elevated so high in power, they would fall heavy when they came down.

Mr. AMES observed, that an objection was made against the Constitution, because the senators are to be chosen for six years. It has been said, that they will be removed too far from the control of the people, and that, to keep them in proper dependence, they should be chosen annually. It is necessary to premise, that no argument against the new plan has made a deeper impression than this, that it will produce a consolidation of the States. This is an effect which all good men will deprecate. For it is obvious, that if the State powers are to be destroyed, the representation is too small. The trust, in that case, would be too great to be confided to so few persons. The objects of legislation would be so multiplied and complicated, that the government would be unwieldy and impracticable. The State governments are essential parts of the system, and the defence

of this article is drawn from its tendency to their preservation.

The senators represent the sovereignty of the States; in the other house individuals are represented. The Senate may not originate bills. It need not be said, that they are, principally, to direct the affairs of war and treaties. They are in the quality of ambassadors of the States, and it will not be denied that some permanency in their office is necessary to a discharge of their duty. Now, if they were chosen yearly, how could they perform their trust? If they would be brought, by that means, more immediately under the influence of the people, then they will represent the State legislatures less, and become the representatives of individuals. This belongs to the other house. The absurdity of this, and its repugnancy to the Federal principles of the Constitution, will appear more fully, by supposing that they are to be chosen by the people at large. If there is any force in the objection to this article, this would be proper. But whom in that case would they represent? Not the legislatures of the States, but the people. This would totally obliterate the Federal features of the Constitution. What would become of the State governments, and on whom would devolve the duty of defending them against the encroachments of the Federal government? A consolidation of the States would ensue, which, it is conceded, would subvert the new Constitution, and against which this very article, so much condemned, is our best security. Too much provision cannot be made against a consolidation. The State governments represent the wishes and feelings and local interests of the people. They are the safeguard and ornament of the Constitution—they will protract the period of our liberties—they will afford a shelter against the abuse of power, and will be the natural avengers of our violated rights.

A very effectual check upon the power of the Senate is provided. A third part is to retire from office every two years. By this means, while the senators are seated for six years they are admonished of their responsibility to the State legislatures. If one-third new members are introduced, who feel the sentiments of their States, they will awe that third whose term will be near expiring. This article seems to be an excellence of

the Constitution, and affords just ground to believe, that it will be in practice, as in theory, a *Federal* republic.

AFTERNOON.

The third section, respecting the construction of the Senate, under debate.

Col. JONES said, his objection still remained—that senators chosen for so long a time will forget their duty to their constituents. We cannot, says he, recall them. The choice of representatives was too long; the senate was much worse. It is, says he, a bad precedent, and is unconstitutional.

Mr. KING said, as the Senate preserved the equality of the States, their appointment is equal. To the objection to this branch, that it is chosen for too long a period, he observed, if the principle of classing them is considered, although it appears long, it will not be found so long as it appears. One class is to serve two years, another four, and another six years; the average, therefore, is four years. The senators, said Mr. King, will have a powerful check, in those men who wish for their seats, who will watch their whole conduct in the general government, and will give the alarm in case of misbehavior. And the State legislatures, if they find their delegates erring, can and will instruct them. Will not this be a check? When they hear the voice of the people solemnly dictating to them their duty, they will be bold men indeed to act contrary to it. These will not be instructions sent them in a private letter, which can be put in their pockets; they will be public instructions, which all the country will see; and they will be hardy men indeed to violate them. The honorable gentleman said, the power to control the Senate, is as great as ever was enjoyed in any government; and that the members, therefore, will be found not to be chosen for too long a time. They are, says he, to assist the executive in the designation and appointment of officers; and they ought to have time to mature their judgment. If for a shorter period, how can they be acquainted with the rights and interests of nations, so as to form advantageous treaties? To understand these rights is the business of education. Their business being naturally different, and more extensive than the

other branch, they ought to have different qualifications; and their duration is not too long for a right discharge of their duty.

Dr. TAYLOR said, he hoped the honorable gentleman did not mean to deceive us, by saying that the Senate are not to be chosen for six years; for they are really to be chosen for six years; and as to the idea of classing, he did not know who, when chosen for that time, would go out at a shorter. He remarked on Mr. King's idea of checks, and observed, that such indeed were the Articles of Confederation, which provides for delegates being chosen annually—for rotation, and the right of recalling. But in this, they are to be chosen for six years; but a shadow of rotation provided for, and no power to recall; and concluded by saying, that if they are once chosen, they are chosen forever.

The Hon. Mr. STRONG mentioned the difficulty which attended the construction of the Senate in the Convention; and that a committee, consisting of one delegate from each State, was chosen to consider the subject, who reported as it now stands; and that Mr. Gerry was on the committee, from Massachusetts.

[Mr. GERRY rose, and informed the President that he was then preparing a letter on the subject in debate, which would set the matter in its true light, and which he wished to communicate; this occasioned considerable conversation, which lasted until the Convention adjourned.]

MONDAY, January 21, 1788.

Fourth section considered in its order.

Mr. AMES rose to answer several objections. He would forbear, if possible, to go over the ground which had been already well trodden. The fourth section had been, he said, well discussed, and he did not mean to offer any formal argument, or new observations, upon it. It had been said, the power of regulating elections was given to Congress. He asked, if a motion was brought forward in Congress, on that particular, subjecting the States to any inconvenience, whether it was

probable such a motion could obtain. It had been also said, that our Federal legislature would endeavor to perpetuate themselves in office; and that the love of power was predominant. Mr. Ames asked how the gentlemen prevailed on themselves to trust the State legislature. He thought it was from a degree of confidence that was placed in them. At present we trust Congress with power—nay, we trust the representatives of Rhode Island and Georgia. He thought it was better to trust a general government, than a foreign State. Mr. Ames acknowledged he came with doubts of the fourth section. Had his objections remained, he would have been obliged to vote against the Constitution: but now he thought, if all the Constitution was as clear as this section, it would meet with little opposition.

Judge DANA. This section, Mr. President, has been subject to much dispute and difficulty. I did not come here determined to vote for every paragraph of this Constitution. I supposed this clause dangerous. It has been amply discussed; and I am now convinced that this paragraph is much better as it stands, than with the amendment, which is, that Congress be restricted in the appointing of time, place, &c., unless when the State legislatures refuse to make them. I have altered my opinion on this point. These are my reasons: It is apparent the intention of the Convention was, to set Congress on a different ground—that a part should proceed directly from the people, and not from their substitutes the legislatures; therefore the legislatures ought not to control the elections. The legislature of Rhode Island has lately formed a plan, to alter their representation to corporations, which ought to be by numbers. Look at Great Britain, where the injustice of this mode is apparent: eight-tenths of the people there have no voice in the elections. A borough, of but two or three cottages, has a right to send two representatives to parliament, while Birmingham, a large and populous manufacturing town lately sprung up, cannot send one. The legislature of Rhode Island are about adopting this plan, in order to deprive the towns of Newport and Providence of their weight; and that, thereby, the legislature may have a power to counteract the will of the majority of the people.

Mr. COOLEY (of Amherst) thought Congress, in the present instance, would, from the powers granted by the Constitution, have authority to control elections, and thereby endanger liberty.

Dr. TAYLOR wished to ask the gentleman from Newburyport, whether the two branches of Congress could not agree to play into each other's hands, and, by making the qualifications of electors £100, by their power of regulating elections, fix the matter of elections so as to keep themselves in.

Hon. Mr. KING rose to pursue the inquiry, why the *place and manner* of holding elections were omitted in the section under debate. It was to be observed, he said, that in the Constitution of Massachusetts, and other States, the manner and place of elections were provided for; the manner was by ballot, and the places towns; for, said he, we happened to settle originally in townships. But it was different in the southern States. He would mention an instance. In Virginia there are but fifteen or twenty towns, and seventy or eighty counties; therefore no rule could be adopted to apply to the whole. If it was practicable, he said, it would be necessary to have a district the fixed place. But this is liable to exceptions; as a district that may now be fully settled, may in time be scarcely inhabited; and the back country, now scarcely inhabited, may be fully settled. Suppose this State thrown into eight districts, and a member apportioned to each: if the numbers increase, the representatives and districts will be increased. The matter, therefore, must be left subject to the regulation of the State legislature, or the general government. Suppose the State legislature, the circumstance will be the same. It is truly said, that our representatives are but a part of the Union, and that they may be subject to the control of the rest; but our representatives make a ninth part of the whole, and if any authority is vested in Congress it must be in our favor. But to the subject: in Connecticut they do not choose by numbers, but by corporations. Hartford, one of their largest towns, sends no more delegates than one of their smallest corporations, each town sending two, except latterly, when a town was divided. The same rule is about to be adopted in Rhode Island. The inequality of such representation, where every corporation would have an equal

right to send an equal number of representatives, was apparent. In the southern States, the inequality is greater. By the Constitution of South Carolina, the city of Charleston has a right to send thirty representatives to the General Assembly, the whole number of which amounts to two hundred. The back parts of Carolina have increased greatly since the adoption of their Constitution, and have frequently attempted an alteration of this unequal mode of representation; but the members from Charleston, having the balance so much in their favor, will not consent to an alteration; and we see that the delegates from Carolina in Congress have always been chosen from the delegates of that city. The representatives, therefore, from that State, will not be chosen by the people, but will be the representatives of a faction of that State. If the general government cannot control in this case, how are the people secure? The idea of the honorable gentleman from Douglass, said he, transcends my understanding; for the power of control given by this section extends to the *manner* of election, not the *qualifications* of the electors. The qualifications are age and residence, and none can be preferable.

On motion,

Resolved, as follows, viz.: Whereas, there is a publication in *The Boston Gazette and the Country Journal*, of this day, as follows, viz.:—

"BRIBERY AND CORRUPTION!!!—The most diabolical plan is on foot to corrupt the members of the Convention who oppose the adoption of the new Constitution. Large sums of money have been brought from a neighboring State for that purpose, contributed by the wealthy. If so, is it not probable there may be collections for the same accursed purpose nearer home?

CENTINEL."

Resolved, That this Convention will take measures for inquiring into the subject of the said publication, and for ascertaining the truth or falsehood of the suggestion therein contained.

Ordered, That the Messenger be directed to request the printers of the said *Gazette* to appear before this Convention forthwith, to give information respecting the said publication.

AFTERNOON.

The Messenger informed the Convention that he had acquainted the printers of the *Boston Gazette*, &c., of the order of this forenoon respecting them, and was answered that one of them would attend the Convention this afternoon.

A letter from Messrs. Benjamin Edes & Son, printers of the *Boston Gazette*, &c., relative to the publication entered this morning. Read, and committed to Mr. Parsons, Mr. Nasson, Mr. Gorham, Mr. Wedgery, Mr. Porter, Mr. Gore, and Mr. Thomas, of Plymouth.

The fifth section being read,

Dr. TAYLOR wished to know the meaning of the words "from time to time," in the third paragraph. Does it mean, said he, from year to year, from month to month, or from day to day.

The Hon. Mr. KING rose, and explained the term.

Mr. WEDGERY read the paragraph, and said, by the words, "except such parts as may require secrecy," Congress might withhold the whole journals under this pretence, and thereby the people be kept in ignorance of their doings.

The Hon. Mr. GORHAM exposed the absurdity of any public body publishing all their proceedings. Many things in great bodies are to be kept secret, and records must be brought to maturity before published. In case of treaties with foreign nations, would it be policy to inform the world of the extent of the powers to be vested in our ambassador, and thus give our enemies opportunity to defeat our negotiations? There is no provision in the Constitution of this State, or of Great Britain, for any publication of the kind; and yet the people suffer no inconveniency. The printers, no doubt, will be interested to obtain the journals as soon as possible for publication, and they will be published in a book, by Congress, at the end of every session.

Rev. Mr. PERLEY described the alarms and anxiety of the people at the commencement of the war, when the whole country, he said, cried, with one voice, "Why don't General Washington march into Boston, and drive out the tyrants?" But, said he, Heaven gave us a commander who knew better than to do this. The reverend gentleman said he was acquainted with

the Roman history, and the Grecian, too, and he believed there never was, since the creation of the world, a greater general than Washington, except, indeed, Joshua, who was inspired by the Lord of Hosts, the God of the armies of Israel. Would it, he asked, have been prudent for that excellent man, General Washington, previous to the American army's taking possession of Dorchester Heights, to have published to the world his intentions of so doing? No, says he, it would not.

The first paragraph of the sixth section read.

Dr. TAYLOR. Mr. President: It has hitherto been customary for the gentlemen of Congress to be paid by the several State legislatures, out of the State treasury. As no State has hitherto failed paying its delegates, why should we leave the good old path? Before the Revolution it was considered as a grievance, that the governors, &c., received their pay from Great Britain. They could not, in that case, feel their dependence on the people, when they received their appointments and salaries from the crown. I know not why we should not pay them now, as well as heretofore.

Gen. PORTER. Have not delegates been retained from Congress, which is virtually recalling them, because they have not been paid? Has not Rhode Island failed to pay their delegates? Should there not be an equal charge throughout the United States, for the payment of the delegates, as there is in this State for the payment of the members of this Convention, met for the general good? Is it not advantageous to the people at large that the delegates to this Convention are paid out of the public treasury? If any inconvenience, however, can be shown to flow from this plan, I should be glad to hear it.

Hon. Mr. SEDGWICK hoped gentlemen would consider that the federal officers of government would be responsible for their conduct; and as they would regard their reputations, will not assess exorbitant wages. In Massachusetts, and in every other State, the legislatures have power to provide for their own payment; and, he asked, have they ever established it higher than it ought to be? But on the contrary, have they not made it extremely inconsiderable? The Commons of Great Britain, he said, have the power to assess their own wages, but for two centuries they have never exercised it.

Can a man, he asked, who has the least respect for the good opinion of his fellow-countrymen, go home to his constituents after having robbed them by voting himself an exorbitant salary? This principle will be a most powerful check: and, in respect to economy, the power, lodged as it is in this section, will be more advantageous to the people, than if retained by the State legislatures. Let us see what the legislature of Massachusetts have done. They vote the salaries of the delegates to Congress, and they have voted them such as have enabled them to live in a style suited to the dignity of a respectable State; but these salaries have been four times as much, for the same time, as they ever voted themselves. Therefore, concluded the honorable gentleman, if left to themselves to provide for their own payment, as long as they wish for the good opinion of mankind, they will assess no more than they really deserve, as a compensation for their services.

Hon. Mr. KING said, if the arguments on the fourth section against an undue control in the State legislatures over the Federal representatives, were in any degree satisfactory, they are so on this.

Gen. THOMPSON. Mr. President: The honorable gentleman means well, and is honest in his sentiments—it is all alike—when we see matters at large, and what it all is, [the Constitution taken as a whole,] we shall know what to do with it.

Mr. PARSONS. In order that the general government should preserve itself, it is necessary it should preserve justice between the several States. Under the Confederation, the power in this section would not be just, for each State has a right to send seven members to Congress, though some of them do not pay one-tenth so much of the public expenses as others; it is a mere federal government of States, neither equal or proportionate. If gentlemen would use the same candor that the honorable gentleman from Topsham (Gen. Thompson) does, considering all the parts as connected with others, the Constitution would receive a better discussion.

The second paragraph of the sixth section read.

Hon. Mr. GORHAM said, that this Constitution contained restrictions which were not to be found in any other; and he wished gentlemen who had objected to every paragraph which

had been read, would give the Convention credit for those parts which must meet the approbation of every man.

The eighth section of Article I., containing the powers of Congress, being read,

Gen. BROOKS (of Lincoln) said this article contained more matter than any one yet read; and he wished to know whether there are not to be some general restrictions to the general articles.

Hon Mr. KING. Mr. President: It is painful to me to obtrude my sentiments on the Convention so frequently. However, Sir, I console myself with the idea that my motives are as good as those of more able gentlemen, who have remained silent. Sir, this is a very important clause, and of the highest consequence to the future fortune of the people of America. It is not my intention to go into any elaborate discussion of the subject. I shall only offer those considerations which have influenced my mind in favor of the article, in the hope that it may tend to reconcile gentlemen to it. It shall not be with a view of exhibiting any particular knowledge of mine, for such is not my intention. Hitherto we have considered the construction of the general government. We now come, Sir, to the consideration of the powers with which that government shall be clothed. The introduction to this Constitution is in these words: "*We, the people,*" *&c.* The language of the Confederation is: "*We, the States,*" *&c.* The latter is a mere Federal government of States. Those, therefore, that assemble under it have no power to make laws to apply to the individuals of the States confederated; and the attempts to make laws for collective societies, necessarily leave a discretion to comply with them or not. In no instance have there been so frequent deviations from first principles, as in neglect or refusal to comply with the requisitions of general governments for the collection of moneys. In the ancient governments, this has been a principal defect. In the United Provinces of the Netherlands, it has been conspicuously so. A celebrated political writer, I mean John de Witt, formerly pensioner of Holland, says, that in the Confederacy of 1570, though the articles were declared equally binding on the several provinces, yet any one had it in its power to comply with the requisitions of the generality, or not; and some provinces, taking advantage of this discretionary power, never paid any

thing. During forty years of their war with Spain, the province of Holland paid fifty-eight parts of an hundred, of all the expenses thereof. Two or three of the provinces never so much as passed a resolution to pay any thing; and de Witt says, that two of them paid not a single gilder. What was the consequence? In one instance Holland compelled a neighboring province to comply with the requisitions, by marching a force into it. This was a great instance of usurpation, made in the time of a war. The Prince of Orange, and the generality, found that they would not continue the war in this manner. What was to be done? They were obliged to resort to the expedient of doubling the ordinary requisitions on the States. Some of the provinces were prevailed upon to grant these requisitions fully, in order to induce Holland to do the same. She, seeing the other States appearing thus forward, not only granted the requisitions, but paid them. The others did not. Thus was a single province obliged to bear almost the whole burden of the war; and one hundred years after, the accounts of this war were unsettled. What was the reason? Holland had but one voice in the States-General. That voice was feeble when opposed by the rest. This fact is true. The history of our own country is a melancholy proof of a similar truth. Massachusetts has paid, while other States have been delinquent. How was the war carried on with the paper money? Requisitions on the States for that money were made. Who paid them? Massachusetts, and a few others. A requisition of twenty-nine millions of dollars was quotaed on Massachusetts, and it was paid. This State has paid in her proportion of the old money. How comes it, then, that gentlemen have any of this money by them? Because the other States have shamefully neglected to pay their quotas. Do you ask for redress? you are scoffed at. The next requisition was for eleven millions of dollars, six millions of which were to be paid in facilities, the rest in silver money, for discharging the interest of the national debt. If the legislatures found a difficulty in paying the hard money, why did they not pay the paper? But one million and two hundred thousand dollars have been paid. And six States have not paid a farthing of it.

After mentioning another requisition equally disregarded,

Mr. King said, two States have not paid a single farthing, from the moment they signed the Confederation, to this day, if my documents are to be depended on; and they are open to the inspection of all. Now, Sir, what faith is to be put in requisitions on the States, for moneys to pay our domestic creditors, and discharge our foreign debts—for moneys lent us in the day of difficulty and distress? Sir, experience proves, as well as any thing can be proved, that no dependence can be placed on such requisitions. What method, then, can we devise to compel the delinquent States to pay their quotas? Sir, I know of none. Laws, to be effective, therefore, must not be laid on States, but upon individuals. Sir, it has been objected to the proposed Constitution, that the power is too great, and by this Constitution is to be sacred. But if the want of power is the defect in the old Confederation, there is a fitness and propriety in adopting what is here proposed, which gives the necessary power wanted. Congress now have power to call for what moneys, and in what proportion they please; but they have no authority to compel a compliance therewith. It is an objection in some gentlemen's minds, that Congress should possess the power of the purse and the sword. But, Sir, I would ask, whether any government can exist, or give security to the people, which is not possessed of this power? The first revenue will be raised from the impost, to which there is no objection; the next from the excise; and if these are not sufficient, direct taxes must be laid. To conclude, Sir, if we mean to support an efficient Federal government, which under the old Confederation can never be the case, the proposed Constitution is, in my opinion, the only one that can be substituted.

Hon. Mr. WHITE said, in giving this power we give up every thing; and Congress, with the purse-strings in their hands, will use the sword with a witness.

Mr. DAWES said, he thought the powers in the paragraph under debate should be fully vested in Congress. We have suffered, said he, for want of such authority in the Federal head. This will be evident if we take a short view of our agriculture, commerce and manufactures. Our agriculture has not been encouraged by the imposition of national duties on rival produce; nor can it be, so long as the several States may make

contradictory laws. This has induced our farmers to raise only what they wanted to consume in their own families; I mean, however, after raising enough to pay their taxes; for I insist, that upon the old plan, the land has borne the burden. For, as Congress could not make laws whereby they could obtain a revenue, in their own way, from impost or excise, they multiplied their requisitions on the several States. When a State was thus called on, it would perhaps impose new duties on its own trade, to procure money for paying its quota of Federal demands. This would drive the trade to such neighboring States as made no such new impositions. Thus the revenue would be lost with the trade, and the only resort would be a direct tax.

As to commerce, it is well known that the different States now pursue different systems of duties in regard to each other. By this, and for want of general laws of prohibition through the Union, we have not secured even our own domestic traffic, that passes from State to State. This is contrary to the policy of every nation on earth. Some nations have no other commerce. The great and flourishing empire of China has but little commerce beyond her own territories; and no country is better circumstanced than we, for an exclusive traffic from State to State. Yet even in *this* we are rivalled by foreigners—by those foreigners to whom we are the least indebted. A vessel from Roseway or Halifax finds as hearty a welcome with its fish and whalebone at the southern ports, as though it was built, navigated and freighted from Salem or Boston. And this must be the case, until we have laws comprehending and embracing alike all the States in the Union.

But it is not only our coasting trade; our whole commerce is going to ruin. Congress has not had power to make even a trade-law which shall confine the importation of foreign goods to the ships of the producing or consuming country: if we had such a law, we should not go to England for the goods of other nations; nor would British vessels be the carriers of American produce from our sister States. In the States southward of the Delaware, it is agreed, that three-fourths of the produce are exported, and three-fourths of the returns are made, in British bottoms. It is said, that for exporting timber, one-half of the

property goes to the carrier; and of the produce in general, it has been computed, that when it is shipped for London from a southern State, to the value of one million of dollars, the British merchant draws from that sum three hundred thousand dollars, under the names of freight and charges. This is money which belongs to the New England States, because we can furnish the ships as well as, and much better than, the British. Our sister States are willing we should receive these benefits, and that they should be secured to us by national laws; but until that is done, their private merchants will, no doubt, for the sake of long credit, or some other such temporary advantage, prefer the ships of foreigners. And yet we have suffered these ignominious burdens rather than trust our own representatives with power to help us, and we call ourselves free and independent states. We are independent of each other, but we are slaves to Europe. We have no uniformity in duties, imposts, excises or prohibitions. Congress has no authority to withhold advantages from foreigners, in order to obtain advantages from them. By the ninth of the old articles, Congress may enter into treaties and alliances under certain provisos, but Congress cannot pledge that a single State shall not render the whole treaty of commerce a nullity.

Our manufactures are another great subject, which has received no encouragement by national duties on foreign manufactures, and they never can by any authority in the Confederation. It has been said, that no country can produce manufactures until it be overstocked with inhabitants. It is true, the United States have employment, except in the winter, for their citizens, in agriculture—the most respectable employment under heaven; but it is now to be remembered, that since the old Confederation, there is a great emigration of foreign artisans hither, some of whom are left here by the armies of the last war, and others, who have more lately sought the new world, from hopes of mending their condition. These will not change their employments. Besides this, the very face of our country leads to manufactures. Our numerous falls of water, and places for mills, where paper, snuff, gunpowder, iron works, and numerous other articles, are prepared—these will save us immense sums of money, that otherwise would go to Europe. The question

is have these been encouraged? Has Congress been able, by national laws, to prevent the importation of such foreign commodities as are made from such raw materials as we ourselves raise? It is alleged, that the citizens of the United States have contracted debts within the last three years, with the subjects of Great Britain, for the amount of near six millions of dollars, and that consequently our lands are mortgaged for that sum. So Corsica was once mortgaged to the Genoese merchants for articles which her inhabitants did not want, or which they could have made themselves, and she was afterwards sold to a foreign power. If we wish to encourage our own manufactures—to preserve our own commerce—to raise the value of our own lands—we must give Congress the powers in question.

The honorable gentleman from Norton, last speaking, says, that if Congress have the power of laying and collecting taxes, they will use the power of the sword. I hold the reverse to be true. The doctrine of requisitions, or of demands upon a whole State, implies such a power; for surely a whole State, a whole community, can be compelled only by an army; but taxes upon an individual, implies only the use of a collector of taxes. That Congress, however, will not apply to the power of direct taxation, unless in cases of emergency, is plain; because, as thirty thousand inhabitants will elect a representative, eight-tenths of which electors perhaps are yeomen, and holders of farms, it will be their own fault if they are not represented by such men as will never permit the land to be injured by unnecessary taxes.

Mr. BODMAN said, that the power given to Congress, to lay and collect duties, taxes, &c., as contained in the section under consideration, was certainly unlimited, and therefore dangerous; he wished to know whether it was necessary to give Congress power to do harm, in order to enable them to do good. It had been said, that the sovereignty of the States remains with them; but if Congress has the power to lay taxes, and, in cases of negligence or non-compliance, can send a power to collect them, he thought that the idea of sovereignty was destroyed. This, he said, was an essential point, and ought to be seriously considered. It had been urged, that gentlemen were jealous of their rulers. He said he thought they ought to be so—it was just they should be so; for jealousy was one of the greatest securi-

ties of the people, in a republic. The power in the eighth section, he said, ought to have been defined; that he was willing to give power to the Federal head, but he wished to know what that power was.

Hon. Mr. SEDGWICK, in answer to the gentleman last speaking, said, if he believed the adoption of the proposed Constitution would interfere with the State legislatures, he would be the last to vote for it; but he thought all the sources of revenue ought to be put into the hands of government, who were to protect and secure us; and powers to effect this had always been necessarily unlimited. Congress would necessarily take that which was easiest to the people; the first would be impost, the next excise, and a direct tax will be the last; for, says the honorable gentleman, drawing money from the people by direct taxes, being difficult and uncertain, it would be the last source of revenue applied to, by a wise legislature; and hence, says he, the people may be assured, that the delegation of a power to levy them would not be abused. Let us suppose—and we shall not be thought extravagant in the supposition—continued Mr. Sedgwick, that we are attacked by a foreign enemy; that in this dilemma our treasury was exhausted, our credit gone, our enemy on our borders; and that there was no possible method of raising impost or excise. In this case, the only remedy would be a direct tax. Could, therefore, this power being vested in Congress, lessen the many advantages which may be drawn from it?

Mr. SINGLETARY thought no more power could be given to a despot, than to give up the purse-strings of the people.

Col. PORTER asked, if a better rule of yielding power could be shown than in the Constitution; for what we do not give, said he, we retain.

Gen. THOMPSON. Mr. President: I totally abhor this paragraph. Massachusetts has ever been a leading State; now let her give good advice to her sister States. Suppose nine States adopt this Constitution, who shall touch the other four? Some cry out, Force them. I say, Draw them. We love liberty. Britain never tried to enslave us until she told us we had too much liberty. We cannot have too much liberty. The Confederation wants amendments; shall we not amend it? The

Convention were sent on to Philadelphia to amend this Confederation; but they made a new creature; and the very setting out of it is unconstitutional. In the Convention, Pennsylvania had more members than all New England, and two of our delegates only were persuaded to sign the Constitution. Massachusetts once shut up the harbors against the British. There I confess I was taken in. Don't let us be in a hurry again. Let us wait to see what our sister States will do. What shall we suffer if we adjourn the consideration of it for five or six months? It is better to do this than to adopt it so hastily. Take care we don't disunite the States. By uniting we stand, by dividing we fall.

Major KINSLEY. Mr. President: After so much has been said on the powers to be given to Congress, I shall say but a few words on the subject. By the Articles of Confederation, the people have three checks on their delegates in Congress; the annual election of them, their rotation, and the power to recall any, or all of them, when they see fit. In view of our Federal rulers, they are the servants of the people; in the new Constitution, we are deprived of annual elections, have no rotation, and cannot recall our members; therefore our Federal rulers will be masters, and not servants. I will examine what powers we have given to our masters. They have power to lay and collect all taxes, duties, imposts and excises; raise armies, fit out navies, to establish themselves in a Federal town of ten miles square, equal to four middling townships, erect forts, magazines, arsenals, &c. Therefore, should the Congress be chosen of designing and interested men, they can perpetuate their existence, secure the resources of war; and the people will have nothing left to defend themselves with. Let us look into ancient history. The Romans, after a war, thought themselves safe in a government of ten men, called the Decemviri: these ten men were invested with all powers, and were chosen for three years. By their arts and designs they secured their second election; but finding, from the manner in which they had exercised their power, they were not able to secure their third election, they declared themselves masters of Rome, impoverished the city, and deprived the people of their rights. It has been said that there was no such danger here; I will sup-

pose they were to attempt the experiment, after we have given them all our money, established them in a Federal town, given them the power of coining money, and raising a standing army; and to establish their arbitrary government; what resources have the people left? I cannot see any. The Parliament of England was first chosen annually; they afterwards lengthened their duration to three years; and from triennial they became septennial. The government of England has been represented as a good and happy government; but some parts of it, their greatest political writers much condemn; especially that of the duration of their Parliaments. Attempts are yearly made to shorten their duration, from septennial to triennial; but the influence of the ministry is so great, that it has not yet been accomplished. From this duration, bribery and corruption are introduced. Notwithstanding they receive no pay, they make great interest for a seat in Parliament, one or two years before its dissolution, and give from five to twenty guineas for a vote; and the candidates sometimes expend from ten thousand to thirty thousand pounds. Will a person throw away such a fortune, and waste so much time, without the probability of replacing such a sum with interest? Or can there be security in such men? Bribery may be introduced here, as well as in Great Britain; and Congress may equally oppress the people; because we cannot call them to an account, considering that there is no annual election—no rotation—no power to recall them, provided for.

TUESDAY, January 22, 1788.

Section eighth still under consideration.

Judge SUMNER. The powers proposed to be delegated in this section are very important, as they will in effect place the purse-strings of the citizen in the hands of Congress for certain purposes. In order to know whether such powers are necessary, we ought, Sir, to inquire what the design of uniting under one government is. It is, that the national dignity may be supported, its safety preserved, and necessary debts paid. Is it

not necessary, then, to afford the *means* by which alone those objects can be attained? Much better, it appears to me, would it be for the States not to unite under one government, which will be attended with some expense, than to unite, and at the same time withhold the powers necessary to accomplish the design of the union. Gentlemen say, the power to raise money may be abused. I grant it; and the same may be said of any other delegated power. Our general court have the same power; but did they ever dare abuse it? Instead of voting themselves six shillings and eight pence, they might vote themselves twelve pounds a day; but there never was a complaint of their voting themselves more than what was reasonable. If they should make an undue use of their power, they know a loss of confidence in the people would be the consequence, and they would not be reëlected; and this is one security in the hands of the people. Another is, that all money-bills are to originate with the House of Representatives; and can we suppose the representatives of Georgia, or any other State, more disposed to burden their constituents with taxes, than the representatives of Massachusetts? It is not to be supposed; for whatever is for the interest of one State, in this particular, will be the interest of all the States, and no doubt attended to by the House of Representatives. But why should we alarm ourselves with imaginary evils? An impost will probably be a principal source of revenue; but if that should be insufficient, other taxes, especially in time of war, ought to supply the deficiency. It is said, that requisitions on the States ought to be made in cases of emergency; but we all know there can be no dependence on requisitions. The honorable gentleman from Newburyport gave us an instance from the history of the United Provinces to prove it, by which it appears they would have submitted to the arms of Spain, had it not been for the surprising exertions of one Province. But there can be no need of recurring to ancient records, when the history of our own country furnishes an instance, where requisitions have had no effect. But some gentlemen object further, and say, the delegation of these great powers *will destroy the State legislatures;* but I trust this never can take place, for the general government depends on the State legislatures for its very existence. The President is to

be chosen by electors under the regulation of the State legislatures; the Senate is to be chosen by the State legislatures; and the representative body, by the people; under like regulations of the legislative body in the different States. If gentlemen consider this, they will, I presume, alter their opinion; for nothing is clearer, than that the existence of the legislatures in the different States is essential to the *very being* of the general government. I hope, Sir, we shall all see the necessity of a Federal government, and not make objections, unless they appear to us to be of some weight.

Mr. GORE. This section, Mr. President, has been the subject of many observations, founded on real or pretended jealousies of the powers herein delegated to the general government; and by comparing the proposed Constitution with things in their nature totally different, the mind may be seduced from a just determination on the subject. Gentlemen have compared the authority of Congress, to levy and collect taxes from the people of America, to a similar power assumed by the Parliament of Great Britain. If we but state the relation which these two bodies bear to America, we shall see that no arguments drawn from one, can be applicable to the other. The House of Commons, in the British Parliament, which is the only popular branch of that assembly, was composed of men chosen exclusively by the inhabitants of Great Britain, in no sort amenable to, or dependent upon, the people of America, and secured, by their local situation, from every burden they might lay on this country. By impositions on this part of the empire, they might be relieved from their own taxes, but could in no case be injured themselves. The Congress of the United States is to be chosen, either mediately or immediately, by the people. They can impose no burdens but what they participate in, in common with their fellow-citizens. The senators and representatives, during the time for which they shall be elected, are incapable of holding any office which shall be created, or the emolument of which shall be increased, during such time. This is taking from candidates every lure to office, and from the administrators of the government, every temptation to create or increase emoluments to such degree as shall be burdensome to their constituents. Gentlemen, who candidly consider these things, will not say

that arguments against the assumption of power by Great Britain can apply to the Congress of the United States. Again, Sir, it has been said, that because ten men of Rome, chosen to compile a body of laws for that people, remained in office after the time for which they were chosen, therefore the Congress of America will perpetuate themselves in government. The Decemviri, in their attainment to their exalted station, had influence enough over the people to obtain a temporary sovereignty, which superseded the authority of the senate and the consuls, and gave them unlimited control over the lives and fortunes of their fellow-citizens. They were chosen for a year; at the end of this period, under pretence of not having completed their business, they, with the alteration of some few of their members, were continued for another year; at the end of the second year, notwithstanding the business for which they were chosen was completed, they refused to withdraw from their station, and still continued in the exercise of their power. But to what was this owing? If history can be credited, it was to an idea, universally received by the Roman people, that the power of the magistrate was supposed to determine by his own resignation, and not by expiration of the time for which he was chosen. This is one, among many instances which might be produced, of the small attainments of the Roman people in political knowledge; and I submit it, Sir, to the candor of this Convention, whether any conclusions can be fairly drawn against vesting the proposed government with the powers mentioned in this section, because the magistrates of the ancient republics usurped power, and frequently attempted to perpetuate themselves in authority.

Some gentlemen suppose it is unsafe and unnecessary to vest the proposed government with authority to "lay and collect taxes, duties, imposts and excises." Let us strip the subject of every thing that is foreign, and refrain from likening it with governments which in their nature and administration have no affinity; and we shall soon see that it is not only safe, but indispensably necessary to our peace and dignity, to vest the Congress with the powers described in this section. To determine the necessity of investing that body with the authority alluded to, let us inquire what duties are incumbent on them.

To pay the debts, and provide for the common defence and general welfare of the United States; to declare war, &c.; to raise and support armies; to provide and maintain a navy: these are authorities and duties incident to every government. No one has, or I presume will, deny that whatever government may be established over America ought to perform such duties. The expense attending these duties is not within the power of calculation. The exigencies of government are in their nature illimitable; so then must be the authority which can meet these exigencies. Where we demand an object, we must afford the means necessary to its attainment. Whenever it can be clearly ascertained, what will be the future exigencies of government, the expense attending them, and the product of any particular tax, duty or impost, then, and not before, can the people of America limit their government to amount and fund. Some have said that the impost and excise would be sufficient for all the purposes of government in times of peace; and that in war, requisitions should be made on the several States for sums to supply the deficiencies of this fund. Those who are best informed, suppose this fund inadequate to, and none pretend that it can exceed, the expenses of a peace establishment. What then is to be done? Is America to wait until she is attacked, before she attempts a preparation for defence? This would certainly be unwise; it would be courting our enemies to make war upon us. The operations of war are sudden, and call for large sums of money. Collections from States are at all times slow and uncertain; and in case of refusal, the non-complying State must be coerced by arms, which in its consequences would involve the innocent with the guilty, and introduce all the horrors of a civil war. But it is said, we need not fear a war—we have no enemies. Let gentlemen consider the situation of our country; they will find we are circumscribed with enemies, from Maine to Georgia. I trust, therefore, that upon a fair and candid consideration of the subject, it will be found indispensably requisite to the peace, dignity and happiness of America, that the proposed government should be vested with all the powers granted by the section under debate.

Hon. Mr. PHILLIPS (of Boston.) I rise to make a few observations on this section, as it contains powers absolutely neces-

sary. If social government did not exist, there would be an end of individual government; therefore our very being depends on social government. On this article is founded the main pillar of the building. Take away this pillar, and where is your government? Therefore, I conceive, in this view of the case, this power is absolutely necessary. There seems to be a suspicion that this power will be abused; but is not all delegation of power equally dangerous? If we have a castle, shall we delay to put a commander into it, for fear he will turn his artillery against us? My concern is for the majesty of the people; if there is no virtue among them, what will the Congress do? If they had the meekness of Moses, the patience of Job, and the wisdom of Solomon, and the people were determined to be slaves, Sir, could the Congress prevent them? If they set Heaven at defiance, no arm of flesh can save them. Sir, I shall have nothing to do in this government. But we see the situation we are in; we are verging towards destruction, and every one must be sensible of it. I suppose the New England States have a treasure offered to them better than the mines of Peru; and it cannot be to the disadvantage of the southern States. Great Britain and France come here with their vessels, instead of our carrying our produce to those countries in American vessels, navigated by our own citizens. When I consider the extensive sea-coast there is to this State alone, so well calculated for commerce, viewing matters in this light, I would rather sink all this continent owes me, than that this power should be withheld from Congress. Mention is made that Congrsss ought to be restricted of the power to keep an army except in times of war. I apprehend that great mischiefs would ensue from such a restriction. Let us take means to prevent war, by granting to Congress the power of raising an army. If a declaration of war is made against this country, and the enemy's army is coming against us, before Congress could collect the means to withstand this enemy, they would penetrate into the bowels of our country, and every thing dear to us would be gone in a moment. The honorable gentleman from Topsham has made use of the expression, "O, my country!" from an apprehension that the Constitution should be adopted; I will cry out, "O, my country!" if it is not adopt-

ed. I see nothing but destruction and inevitable ruin, if it is not. The more I peruse and study this article, the more convinced am I of the necessity of such a power being vested in Congress; the more I hear said against it, the more I am confirmed in my sentiments of its expediency: for it is like the pure metal; the more you rub it the brighter it shines. It is with concern I hear the honorable gentleman from Topsham make use of language against the gentlemen of the law. Sir, I look on this order of men to be essential to the liberties and rights of the people; and whoever speaks against them, as speaking against an ordinance of Heaven. Mr. President, I hope every gentleman will offer his sentiments candidly on this momentous affair; that he will examine for himself, and consider that he has not only the good of his Commonwealth under his consideration, but the welfare of the United States.

Dr. WILLARD entered largely into the field of ancient history, and deduced therefrom, arguments to prove that where power had been trusted to men, whether in great or small bodies, they had always abused it, and that thus republics had soon degenerated into aristocracies. He instanced Sparta, Athens, and Rome. The Amphictyonic League, he said, resembled the Confederation of the United States. While thus united they defeated Xerxes; but were subdued by the gold of Phillip, who bought the council to betray the interest of their country.

Hon. Mr. GORHAM (in reply to the gentleman from Uxbridge) exposed the absurdity of conclusions and hypotheses drawn from ancient governments, which bore no relation to the Confederacy proposed; for those governments had no idea of representation, as we have. He, however, warned us against the evils which had ruined those states, which he thought was the want of an efficient Federal government. As much as the Athenians rejoiced in the extirpation of a Lacedemonian, will, if we are disunited, a citizen of a Massachusetts, at the death of a Connecticut man or a Yorker. With respect to the proposed government degenerating into an aristocracy, the honorable gentleman observed, that the nature and situation of our country rendered such a circumstance impossible; as from the great preponderance of the agricultural interest in

the United States, that interest would always have it in its power to elect such men as would, he observed, effectually prevent the introduction of any other than a perfectly democratical form of government.

Hon. Mr. CABOT went fully into a continuation of the arguments of the honorable gentleman last up. In a clear and elegant manner he analyzed the ancient governments mentioned by Dr. Willard, and, by comparing them with the proposed system, fully demonstrated the superiority of the latter, and in a particular manner the section under debate.

Mr. RANDAL said, the quoting of ancient history was no more to the purpose, than to tell how our fathers dug clams at Plymouth. He feared a consolidation of the thirteen States. Our manners, he said, were widely different from the southern States—their elections were not so free and unbiassed; therefore, if the States were consolidated, he thought it would introduce manners among us which would set us at continual variance.

Mr. BOWDOIN pointed out other instances of dissimilarity between the systems of the ancient republics and the proposed Constitution, than those mentioned by the honorable gentlemen from Charlestown and Beverly; in the want of the important checks in the former, which were to be found in the latter; to the want of which, in the first, was owing, he said, the usurpation which took place. He instanced the Decemviri, who, though chosen for a short period, yet, unchecked, soon subverted the liberties of the Romans; and concluded with a decided opinion in favor of the Constitution under debate.

AFTERNOON.

Mr. SYMMES. Mr. President: In such an assembly as this, and on a subject that puzzles the oldest politicians, a young man, Sir, will scarcely dare to think for himself; but if he venture to speak, the effort must certainly be greater. This Convention is the first representative body in which I have been honored with a seat; and men will not wonder that a scene at once so new and so august, should confuse, oppress, and almost disqualify me to proceed.

Sir, I bespeak the candor of the Convention—that candor which I know I need but ask to have it extended to me, while I make a few indigested observations on the paragraph now in debate. I have hitherto attended with diligence, but no great anxiety, to the reasoning of the ablest partisans on both sides of the question. Indeed, I could have wished for a more effectual, and (if I may term it so) a more feeling representation in the lower house, and for a representation of the people in the Senate. I have been, and still am, desirous of a rotation in office, to prevent the final perpetuation of power in the same men. And I have not been able clearly to see why the *place* and *manner* of holding elections should be in the disposal of Congress.

But, Sir, in my humble opinion, these things are comparatively the lesser things of the law. They doubtless have their influence in the grand effect, and so are essential to the system. But, Sir, I view the section to which we have at length arrived, as the cement of the fabric, and this clause as the key-stone, or (if I may apply the metaphor) the magic talisman on which the fate of it depends.

Allow me, Sir, to recall to your remembrance that yesterday, when States were in doubt about granting to Congress a five per cent. impost, and the simple power of regulating trade—the time when, so delicate was the patriotic mind, that power was to be transferred with reluctant, with a sparing hand, and the most obvious utility could scarcely extort it from the people. It appears to me of some importance to consider this matter, and to demand complete satisfaction upon the question, why an unlimited power in the affair of taxation is so soon required? Is our situation so vastly different, that the powers, so lately sufficient, are now but the dust of the balance? I observe, Sir, that many men, who within a few years past were strenuous opposers of an augmentation of the power of Congress, are now the warmest advocates of power, so large as not to admit of a comparison with those which they opposed. Cannot some of them state their reasons then, and their reasons now, that we may judge of their consistency? or shall we be left to suppose that the opinions of politicians, like those of the multitude, vibrate from one extreme to the other, and that we have

no men among us to whom we can intrust the philosophic task of pointing out the golden mean?

At present, Congress have no power to lay taxes, &c., nor even to compel a compliance with their requisitions. May we not suppose, that the members of the great Convention had severely felt the impotency of Congress, while they were in it, and therefore were rather too keenly set for an effectual increase of power? That the difficulties they had encountered, in obtaining decent requisitions, had wrought in them a degree of impatience, which prompted them to demand the purse-strings of the nation, as if we were insolvent, and the proposed Congress were to compound with our creditors? Whence, Sir, can this great, I had almost said, this bold demand, have originated? Will it be said that it is but a consistent and necessary part of the general system? I shall not deny these gentlemen the praise of inventing a system completely consistent with itself, and pretty free from contradiction; but I would ask, (I shall expect to be answered,) how a system can be necessary for us, of which this is a consistent and necessary part?

But, Sir, to the paragraph in hand—Congress, &c.

Here, Sir, (however kindly Congress may be pleased to deal with us,) is a very good and valid conveyance of all the property in the United States, to certain uses, indeed, but those uses capable of any construction the trustee may think proper to make. This body is not amenable to any tribunal, and therefore this Congress can do wrong. It will not be denied that they *may* tax us to any extent; but some gentlemen are fond of arguing that this body never *will* do any thing but what is for the common good. Let us consider that matter.

Faction, Sir, is the vehicle of all transactions in public bodies; and when gentlemen know this so well, I am rather surprised to hear them so sanguine in this respect. The prevalent faction is the body; these gentlemen, therefore, must mean that the prevalent faction will always be right, and that the true patriots will always outnumber the men of less and selfish principles. From this it would follow that no public measure was ever wrong, because it must have been passed by the majority; and so I grant no power ever was or will be abused. In short, we know that all governments have degenerated, and consequently

have abused the powers reposed in them; and why we should imagine better of the proposed Congress than of myriads of public bodies who have gone before them, I cannot at present conceive.

Sir, we ought (I speak it with submission) to consider that what we now grant from certain motives, well grounded, at present, will be exacted of posterity as a prerogative, when we are not alive to testify the tacit conditions of the grant; that the wisdom of this age will then be pleaded by those in power; and that the cession we are now about to make will be actually clothed with the venerable habit of ancestral sanction.

Therefore, Sir, I humbly presume we ought not to take advantage of our situation in point of time, so as to bind posterity to be obedient to laws they may very possibly disapprove, nor expose them to a rebellion which at that period will very probably end only in their farther subjugation.

The paragraph in question is an absolute decree of the people. The Congress shall *have* power; it does not say they shall *exercise* it; but our necessities say they *must*, and the experience of ages says that they *will*, and finally, when the expenses of the nation, by their ambition, are grown enormous, that they will oppress and subject. For, Sir, they may lay taxes, duties, imposts and excises! One would suppose that the Convention, Sir, were not at all afraid to multiply words, when any thing was to be got by it. By another clause, all imposts and duties on exports and imports, wherever laid, go into the Federal chest; so that Congress may not only lay imposts and excises, but all imposts and duties that are laid on imports and exports by any State, shall be a part of the National revenue; and, besides, Congress may lay an impost on the produce and manufactures of the country, which are consumed at home. And all these shall be equal through the States. Here, Sir, I raise two objections: First, that Congress should have this power. It is a universal, unbounded permission; and as such, I think no free people ought ever to consent to it, especially in so important a matter as that of property. I will not descend, Sir, to an abuse of this future Congress, until it exists, nor then, until it misbehaves, nor then, unless I dare. But I think that some certain revenue, amply adequate to all necessary purposes, upon

a peace establishment, but certain and definitive, would have been better, and the collection of it might have been guaranteed by every State to every other. We should then have known to what we were about to subscribe, and should have cheerfully granted it. But now, we may indeed grant, but who can cheerfully grant he knows not what?

Again, Sir, I object to the equality of these duties through the States. It matters not with me, in the present argument, which of them will suffer by this proportion. Some probably will, as the consumption of dutied articles will not, if we may judge from experience, be uniform in all.

But some say, with whom I have conversed, it was for this reason that taxes were provided, that by their assistance the defect of duties in some States ought to be supplied. Now, then, let us suppose that the duties are so laid, that if every State paid in proportion to that which paid most, the duties alone would supply a frugal treasury. Some States will pay but half their proportion, and some will scarcely pay any thing. But those in general who pay the least duty, viz., the inland States, are least of all able to pay a land tax, and therefore I do not see but this tax would operate most against those who are at least able to pay it.

I humbly submit it, Sir, whether, if each State had its proportion of some certain gross sum assigned, according to its numbers, and a power was given to Congress to collect the same, in case of default in the State, this would not have been a safer Constitution. For, Sir, I also disapprove of the power to collect, which is here vested in Congress. It is a power, Sir, to burden us with a standing army of ravenous collectors—harpies, perhaps from another State, but who, however, were never known to have bowels for any purpose but to fatten on the life-blood of the people. In one age or two this will be the case, and when the Congress shall become tyrannical, these vultures, their servants, will be the tyrants of the village, by whose presence all freedom of speech and action will be taken away.

Sir, I shall be told that these are imaginary evils; but I hold to this maxim, that power was never given (of this kind especially) but it was exercised, nor ever exercised but it was finally abused. We must not be amused with handsome probabilities,

but we must be assured that we are in no danger, and that this Congress could not distress us, if they were ever so much disposed.

To pay the debts, &c.

These words, Sir, I confess, are an ornament to the page, and very musical words, but they are too general to be understood as any kind of limitation of the power of Congress, and not very easy to be understood at all. When Congress have the purse, they are not confined to rigid economy, and the word *debts* here is not confined to debts already contracted, or, indeed, if it were, the term "general welfare" might be applied to any expenditure whatever. Or if it could not, who shall dare to gainsay the proceedings of this body at a future day, when, according to the course of nature, it shall be too firmly fixed in the saddle to be overthrown by any thing but a general insurrection? an event not to be expected, considering the extent of this continent, and if it were to be expected, a sufficient reason in itself for rejecting this or any Constitution that would tend to produce it.

This clause, Sir, contains the very sinews of the Constitution. And I hope the universality of it may be singular; but it may be easily seen, that it tends to produce, in time, as universal powers in every other respect. As the poverty of individuals prevents luxury, so the poverty of public bodies, whether sole or aggregate, prevents tyranny. A nation cannot, perhaps, do a more politic thing, than to supply the purse of its sovereign with that parsimony which results from a sense of the labor it costs, and so to compel him to comply with the genius of his people, and conform to their situation, whether he will or not. How different will be our conduct, if we give the entire disposal of our property to a body, as yet almost unknown in theory, in practice quite heterogeneous in its composition, and whose maxims are yet entirely unknown!

Sir, I wish the gentlemen who so ably advocate this instrument, would enlarge upon this formidable clause, and I most sincerely wish that the effect of their reasoning may be my conviction. For, Sir, I will not dishonor my constituents by supposing that they expect me to resist that which is irresistible, the force of reason. No, Sir, my constituents ardently wish for a

firm, efficient, continental government, but fear the operation of this which is now proposed. Let them be convinced that their fears are groundless, and I venture to declare, in their name, that no town in the Commonwealth will sooner approve the form, or be better subjects under it.

Mr. JONES (of Boston) enlarged on the various checks which the Constitution provides, and which, he said, formed a security for liberty, and a prevention against power being abused—the frequency of elections of the democratic branch, representation apportioned to numbers, the publication of the journals of Congress, &c. Gentlemen, he said, had compared the people of this country to those of Rome; but, he observed, the comparison, was very erroneous. The Romans were divided into two classes—the nobility and plebeians. The nobility kept all kinds of knowledge to their own class, and the plebeians were in general very ignorant; and, when unemployed, in time of peace, were ever ready to revolt, and to follow the dictates of any designing patrician. But, continued the worthy gentleman, the people of the United States are an enlightened, well-informed people, and are therefore not easily imposed on by designing men. Our right of representation, concludes Mr. Jones, is much more just and equitable than the boasted one of Great Britain, whose representatives are chosen by corporations, or boroughs, and those boroughs, in general, are the property, or at the disposal of, the nobility and rich gentry of the kingdom.

[The Vice-President having informed the Convention in the forenoon, that he had received a long letter from the Hon. Mr. Gerry, the same was read, as soon as the Convention proceeded to business in the afternoon. When the Vice-President had read the letter, Mr. Gore rose and objected to the reading a state of facts respecting the construction of the Senate in the Federal Convention, which accompanied the letter; "not," he said, "from a wish to preclude information from his own mind, or from the minds of the Convention, but from his duty to his constituents, and the desire he had to guard against infringements on the orders of the Convention." Mr. Gore was interrupted, as being out of order, but was proceeding on his objection, when the Hon. Judge Dana begged Mr. Gore's leave to

say a few words, which he did; after which he retired from the Convention until the consideration of the letter should be gone through with.]

WEDNESDAY, January 23, 1788.

Mr. PEIRCE rose, he said, to make a few observations on the powers of Congress, in this section. Gentlemen, he said, in different parts of the house (Messrs. Dalton, Phillips and Gore) had agreed that Congress will not lay direct taxes except in cases of war; for that to defray the exigencies of peace, the impost and excise would be sufficient; and as that mode of taxation would be the most expedient and productive, it would undoubtedly be adopted. But it was necessary Congress should have power to lay direct taxes at all times, although they will not use it, because when our enemies find they have sufficient powers to call forth all the resources of the people, it will prevent their making war, as they otherwise would. As the Hon. Mr. Phillips used this proverb, "A stitch in time will save nine," his meaning, I suppose, was, that we should have war nine times if Congress had not such powers, where we should once if they had such powers. But these arguments to me are not conclusive; for if our enemies know they do not use such powers except in a war, although granted to them, what will be the difference if they have the powers only in the time of war? But, Mr. President, if Congress have the powers of direct taxes, in the manner prescribed in this section, I fear we shall have that mode of taxation adopted in preference to imposts and excises; and the reasons of my fears are these: When the impost was granted to Congress in this State, I then, being a member of court, well remember the gentlemen in trade, almost with one consent, agreed that it was an unequal tax, bearing hard on them, for although it finally was a tax on the consumer, yet in the first instance it was paid by persons in trade, and also, that they consumed more than the landed interest of dutied articles, and nothing but necessity induced them to submit to grant said impost, as that was the only way Congress could

collect money to pay the foreign debt, under the regulations they were then under; and I fear part of this State's members in Congress, when this Constitution is adopted, will resume their own opinion, when they can lay direct taxes; and as Rhode Island has always been against an impost, and as they have an equal representation in the Senate, and part of Connecticut will be interested with them, and the southern States having no manufactures of their own, and consuming much more foreign articles than the northern, it appears to me we are not certain of availing ourselves of an impost, if we give Congress power to levy and collect direct taxes in time of peace.

While I am up, Mr. President, I would make some observations on what has been passed over, as I think it is within the orders of the house. The Hon. Mr. Sedgwick said, if I understood him right, that if he thought that this Constitution consolidated the union of the States, he should be the last man that should vote for it; but I take his meaning to be this, according to the reasoning of Mr. Ames, that it is not a consolidation of the Union, because there are three branches in the Union, and therefore, it is not a consolidation of the Union. But, Sir, I think I cannot conceive of a sovereignty of power, existing within a sovereign power, nor do I wish any thing in this Constitution to prevent Congress being sovereign in matters belonging to their jurisdiction; for I have seen the necessity of their powers in almost all the instances that have been mentioned in this Convention; and also last winter, in the rebellion, I thought it would be better for Congress to have stilled the people, rather than people from amongst themselves, who are more apt to be governed by temper than others, as it appeared to me we were in the disqualifying act, as in my opinion, we then did not keep strictly to our own Constitution; and I believe such a superior power ought to be in Congress. But I would have it distinctly bounded, that every one may know the utmost limits of it, and I have some doubts on my mind as to those limits, which I wish to have solved. I have also an objection as to the term for which the Senate are to be in office; for as the democratical branch of the Federal legislature is to continue in office two years, and they are the only check on the Federal, and they, the Senate, to continue in office six years,

they will have an undue advantage on the democratic branch, and I think they ought not to continue in office for a longer time than the other; and also, that if they conduct ill we may have a constitutional revolution in as short a period as two years, if needed. The Hon. Mr. King said, some days past, that the Senate going out by classes, if rightly considered, were not for but four years; because one-third part were never more than six, another four, and a third two—therefore the medium was four. But I think that way of arguing would argue that if they were all to go out at the end of six years, that they were but three years in office, because half their time they were under the age of three years, and the other half over the age of three years in office; therefore his arguing in that respect to me was not well founded.

Col. VARNUM, in answer to an inquiry, why a bill of rights was not annexed to this Constitution, said, that by the Constitution of Massachusetts, the legislature have a right to make all laws not repugnant to the Constitution. Now, says he, if there is such a clause in the Constitution under consideration, then there would be a necessity for a bill of rights. In the section under debate, Congress have an expressed power to levy taxes, &c., and to pass laws to carry their requisitions into execution. This, he said, was express, and required no bill of rights. After stating the difference between delegated power, and the grant of all power, except in certain cases, the Colonel proceeded to controvert the idea that this Constitution went to a consolidation of the Union. He said it was only a consolidation of strength; and that it was apparent Congress had no right to alter the internal regulations of a State. The design in amending the Confederation, he said, was to remedy its defects. It was the interest of the whole to confederate against a foreign enemy, and each was bound to exert its utmost ability to oppose that enemy; but it had been done at our expense in a great measure; and there was no way to provide for a remedy, because Congress had not the power to call forth the resources of every State, nor to coerce delinquent States. But, under the proposed government, those States which will not comply with equal requisitions, will be coerced. And this, he said, is a glorious provision. In the late war, said the Colonel,

the States of New Hampshire and Massachusetts, for two or three years, had in the field half the Continental army under General Washington. Who paid these troops? The States which raised them were called on to pay them. How, unless Congress have a power to levy taxes, can they make the States pay their proportion? In order that this, and some other States, may not again be obliged to pay eight or ten times their proportion of the public exigencies, he said, this power is highly necessary to be delegated to the Federal head. He showed the necessity of Congress being enabled to prepare against the attacks of a foreign enemy, and he called upon the gentleman from Andover, (Mr. Symmes,) or any other gentleman, to produce an instance, where any government, consisting of three branches, elected by the people, and having checks on each other, as this has, abused the power delegated to them.

Mr. CHOATE said, that this clause gives power to Congress to levy duties, excises, imposts, &c., considering the trust delegated to Congress, that they are to "provide for the common defence, promote the general welfare," &c. If this is to be the object of their delegation, the next question is, whether they shall not be vested with powers to prosecute it. And this can be no other than an unlimited power of taxation, if that defence requires it. Mr. Choate contended that it was the power of the people concentred to a point; that, as all power is lodged in them, this power ought to be supreme. He showed the necessity of its being so, not only for our common defence, but for our advantage in settling commercial treaties. Do we wish to make a treaty with any power of Europe, we are told we have no stability, as a nation. As Congress must provide for the common defence, shall they, asked Mr. Choate, be confined to the impost and excise? They alone are the judges whether five or one per cent. is necessary or convenient. It has been the practice of all nations to anticipate their resources by loans. This will be the case of the United States, in war; and, he asked, if our resources are competent and well established, and no doubt remained of them, whether in that case the individuals who have property, will not cheerfully offer it for the general defence? After adverting to the idea of some, of its being a consolidation of the Union, Mr. Choate concluded, by a

brief display of the several checks contained, and securities for the people to be found in this system.

Gen. THOMPSON. Sir, the question is, whether Congress shall have power. Some say, that if this section was left out, the whole would fall to the ground. I think so too, as it is all of a piece. We are now fixing a national consolidation. This section, I look upon it, is big with mischiefs. Congress will have power to keep standing armies. The great Mr. Pitt says standing armies are dangerous. Keep your militia in order—we don't want standing armies. A gentleman said, we are a rich State. I say so too. Then why shall we not wait five or six months, and see what our sister States do? We are able to stand our own ground against a foreign power. They cannot starve us out—they cannot bring their ships on the land—we are a nation of healthy, strong men—our land is fertile, and we are increasing in numbers. It is said we owe money; no matter if we do; our safety lies in not paying it. Pay only the interest. Don't let us go too fast. Shall not Massachusetts be a mediator? It is my wish she may be one of the four dissenting States; then we shall be on our old ground, and shall not act unconstitutionally. Some people cry, it will be a great charge; but it will be a greater charge, and be more dangerous to make a new one. Let us amend the old Confederation. Why not give Congress power only to regulate trade? Some say, that those we owe will fall upon us; but it is no such thing; the balace of power in the old countries will not permit it—the other nations will protect us. Besides, we are a brave and a happy people. Let us be cautious how we divide the States. By uniting we stand, by dividing we fall. We are in our childhood yet; don't let us grow too fast, lest we grow out of shape. If I have proved that we are a respectable people, in possession of liberty, property and virtue, and none in a better situation to defend themselves, why all this racket? Gentlemen say we are undone if we cannot stop up the Thames: But, Mr. President, nations will mind their own interest, and not ours. Great Britain has found out the secret to pick the subjects' pockets, without their knowing of it—that's the very thing Congress is after. Gentlemen say this section is as clear as the sun, and that all power is retained which is not given. But

where is the bill of rights which shall check the power of this Congress, which shall say, *thus far shall ye come, and no farther?* The safety of the people depends on a bill of rights. If we build on a sandy foundation, is it likely we shall stand? I appeal to the feelings of the Convention. There are some parts of this Constitution which I cannot digest; and, Sir, shall we swallow a large bone for the sake of a little meat? Some say, swallow the whole now, and pick out the bone afterwards. But I say, let us pick off the meat, and throw the bone away.

This section, Sir, takes the purse-strings from the people. England has been quoted for their fidelity; but did their Constitution ever give such a power as is contained in this Constitution? Did they ever allow Parliament to vote an army but for one year? But here we are giving Congress power to vote an army for two years—to tax us without limitation—no one to gainsay them, and no inquiry yearly, as in Britain. Therefore, if this Constitution is got down, we shall alter the system entirely, and have no checks upon Congress.

The Rev. Mr. NILES wished the honorable gentleman would point out the limits to be prescribed to the powers given by this section.

Hon. Mr. BOWDOIN. Mr. President: On the subject of government, which admits of so great a variety in its parts and combinations, a diversity of opinions is to be expected; and it was natural to suppose, that in this Convention, respectable for its numbers, but much more so for the characters which compose it, there would be a like diversity concerning the Federal Constitution, that is now the subject of our consideration.

In considering it, every gentleman will reflect, how inadequate to the purposes of the Union the Confederation has been. When the plan of the Confederation was formed, the enemy were invading us; and this inspired the several States with such a spirit of union, and mutual defence, that a mere requisition or recommendation of Congress was sufficient to procure the needful aids, without any power of coercion; and for that reason, among others, no such power was given by the Confederation. But since that reason has ceased, and the idea of danger being removed by the peace, the requisitions of Congress have, in most of the States, been little regarded;

notwithstanding they solemnly pledged their faith to comply with them.

This non-compliance has compelled Congress to increase the foreign debt of the Union, by procuring further loans, to pay the interest and instalments due on former loans; and in that way to preserve the public faith, which had been pledged to foreign powers. It has compelled them, in order to prevent the consequences of a breach of faith, as relative to those powers, to enter repeatedly into those ruinous negotiations by which "the United States jointly, and each of them in particular, together with all their lands, chattels, revenues and products, and also the imposts and taxes already laid and raised in the same, or in time to come to be laid and raised, are, for the whole," mortgaged for the repayment of those loans by instalments, and for payment of the interest on them annually. These debts *must* be paid, *bona fide*, according to contract; or be further increased by procuring, if procurable, further loans; which, ruinous as the measure is, must be continued, unless the States empower Congress to raise money for the discharging those debts. It will not be in the power of the United States, and I am sure it will not be in their inclination, to rid themselves of those debts in the same base and ignominious manner in which a faction, in one of them, are endeavoring to get rid of theirs. To the same cause (a non-compliance with Congressional requisitions) are owing the repeated but necessary breaches of public faith in regard to the payment of the Federal domestic debt. And hence, as relative to the joint consolidated debt, the inefficiency of the public finances, and the bankrupt state of the Federal treasury; which can never be remedied without empowering Congress to levy adequate duties and taxes. Without such a power, the accumulating debt will never be paid, but by a forcible collection, which our foreign creditors know how, and are able to apply, if unhappily it should be necessary. The several loans, which by contract are to be paid by instalments, will, in case of the failure of any of the stipulated payments, become, the whole of them, immediately payable; and any of the property of any of the States, whether public or private, that can be most easily come at, will in that case be seized and applied for that purpose.

This mode of reimbursement or reprisal will be upon the trade and navigation of the United States; and in proportion as ours of this State may be larger and more extensive, than the trade and navigation of other States, we shall be the greatest sufferers. This ruin of our trade will involve in it not only the ruin of the mercantile part of the State, and of the numerous body of mechanics dependent upon it, but will most essentially affect every other class of citizens, and operate most extensively to the injury of the Commonwealth.

These are some of the consequences, certain and infallible, that will flow from the denial of *that* power to Congress. Shall we, then, we of this State, who are so much interested in this matter, deny them *that* power—so essential to our political happiness?

But if we attend to our trade, as it is at present, we shall find, that the miserable state of it is owing to a like want of power in Congress. Other nations prohibit our vessels from entering their ports, or lay heavy duties on our exports carried thither; and we have no retaliating or regulating power over their vessels and exports to prevent it. Hence a decrease of our commerce and navigation, and of the duties and revenue arising from them. Hence an insufficient demand for the produce of our lands, and the consequent discouragement of agriculture. Hence the inability to pay debts, and particularly taxes, which by that decrease are enhanced. And hence, as the necessary result of all these, the emigration of our inhabitants. If it be asked, How are these evils, and others that might be mentioned, to be remedied? the answer is short: By giving Congress power, and adequate power. Whether such power be given by the proposed Constitution, it is left with the Conventions from the several States, and with us, who compose one of them, to determine.

In determining on this question, every gentleman will doubtless consider the importance of cultivating a spirit of union among ourselves, and with the several States. This spirit procured our emancipation from British tyranny; and the same spirit, by uniting us in the necessary means, must secure to us our dear-bought, blood-purchased liberty and independence, and deliver us from evils which, unless remedied, must end in

national ruin. The means for effecting these purposes are within our reach; and the adoption of the proposed Constitution will give us the possession of them. Like all other human productions, it may be imperfect; but most of the imperfections imputed to it are ideal and unfounded; and the rest are of such a nature that they cannot be certainly known, but by the operation of the Constitution: and if in its operation it should in any respect be essentially bad, it will be amended in one of the modes prescribed by it. I say, *will be* amended, because the Constitution is constructed on such principles, that its bad effects, if any such should arise from it, will injure the members of Congress equally with their constituents; and therefore both of them must be equally induced to seek for and effectuate the requisite amendments.

There have been many objections offered against the Constitution; and of these the one most strongly urged has been the great power vested in Congress. On this subject, I beg leave to make a few general observations, which ought to be attended to, as being applicable to every branch of that power.

It may therefore be observed, that the investiture of such power, so far from being an objection, is a most cogent reason for accepting the Constitution. The power of Congress, both in the legislative and executive line, is the power of the people, collected, through a certain medium, to a focal point; at all times ready to be exerted for the general benefit, according as circumstances or exigencies may require. If you diminish or annihilate it, you diminish or annihilate the means of your own safety and prosperity; which means, if they were to be measured like mathematical quantities, would be in exact proportion, as the power is greater or less. But this is not the case; for power that does not reach, or is inadequate to the object, is worse than none. An exertion of *such* power would increase the evil it was intended to remove, and at the same time create a further evil, which might be a very great one—the expense of a fruitless exertion.

If we consider the objects of the power, they are numerous and important; and as human foresight cannot extend to many of them, and all of them are in the womb of futurity, the quantum of the power cannot be estimated. Less than the

whole, as relative to Federal purposes, may, through its insufficiency, occasion a dissolution of the Union, and a subjugation or division of it among foreign powers. Their attention is drawn to the United States; their emissaries are watching our conduct, particularly upon the present most important occasion; and if we should be so unhappy as to reject the Federal Constitution proposed to us, and continue much longer our present weak, unenergetic Federal government, their policy will probably induce them to plan a division or partition of the States among themselves; and unite their forces to effect it.

But, however that may be, this is certain, that the respectability of the United States among foreign nations, our commerce with them on the principles of reciprocity, and our forming beneficial treaties with them on those principles, their estimation of our friendship and fear of losing it, our capacity to resent injuries, and our security against interior as well as foreign attacks, must be derived from such a power. In short, the commercial and political happiness, the liberty and property, the peace, safety and general welfare, both internal and external, of each and all the States, depend on that power; which, as it must be applied to a vast variety of objects, and to cases and exigencies beyond the ken of human prescience, must be very great; and which cannot be limited without endangering the public safety.

It will be and has been said, this great power may be abused; and, instead of protecting, may be employed by Congress in oppressing their constituents. A possibility of abuse, as it may be affirmed of all delegated power whatever, is by itself no sufficient reason for withholding the delegation. If it were a sufficient one, no power could be delegated; nor could government of any sort subsist. The possibility, however, should make us careful, that in delegations of importance, like the one contained in the proposed Constitution, there should be such checks provided, as would not frustrate the end and intention of delegating the power, but would, as far as it could be safely done, prevent the abuse of it: and such checks are provided in the Constitution. Some of them were mentioned the last evening by one of my worthy colleagues; but I shall here exhibit all of them in one view.

The two capital departments of government, the legislative and executive, in which the delegated powers reside, consisting of the President, Vice-President, Senate and Representatives, are directly, and by their respective legislatures and delegates, chosen by the people.

The President, and also the Vice-President, when acting as President, before they enter on the execution of the office, shall each "solemnly swear, or affirm, that he will faithfully execute the office of president of the United States, and will, to the best of his ability, preserve, protect and defend, the Constitution of the United States."

"The senators and representatives before mentioned, and the members of the several State legislatures, and all executive and judicial officers, both of the United States, and of the several States, shall be bound, by oath or affirmation, to support this Constitution."

"The president, vice-president, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes or misdemeanors."

"No senator or representative shall, during the time for which he was elected, be appointed to any civil office, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States, shall be a member of either house, during his continuance in office."

"No title of nobility shall be granted by the United States, or by any particular State; and no person, holding any office of profit or trust under the United States, shall, without the consent of the Congress, accept of any present, emolument, office or title, of any kind whatever, from any king, prince, or foreign state."

"The United States shall guarantee to every State in this Union, a republican form of government, and shall protect each of them against invasion and domestic violence."

To these great checks may be added several other very essential ones, as, the negative which each house hath upon the acts of the other; the disapproving power of the President, which subjects those acts to a revision by the two houses, and to a final

negative, unless two-thirds of each house shall agree to pass the returned acts, notwithstanding the President's objections; the printing the journals of each house, containing their joint and respective proceedings; and the publishing, from time to time, a regular statement and account of the receipts and expenditures of all public money, none of which shall be drawn from the treasury but in consequence of appropriations made by law.

All these checks and precautions, provided in the Constitution, must, in a great measure, prevent an abuse of power, at least in all flagrant instances, even if Congress should consist wholly of men who were guided by no other principle than their own interest. Under the influence of such checks, this would compel them to a conduct, which, in the general, would answer the intention of the Constitution. But the presumption is, (and if the people duly attend to the objects of their choice, it would be realized,) that the President of the United States, and the members of Congress, would, for the most part, be men, not only of ability, but of a good moral character, in which case an abuse of power is not to be apprehended, nor any error in the government, but such as every human institution is subject to.

There is a further guard against the abuse of power, which, though not expressed, is strongly implied in the Federal Constitution, and indeed in the Constitution of every government, founded on the principles of equal liberty; and that is, that those who make the laws, and particularly laws for the levying of taxes, do, in common with their fellow-citizens, fall within the power and operation of those laws.

As then the individuals of Congress will all share in the burdens they impose, and be personally affected by the good or bad laws they make for the Union, they will be under the strongest motives of interest to lay the lightest burdens possible, and to make the best laws, or such laws as shall not unnecessarily affect either the property or the personal rights of their fellow-citizens.

With regard to rights, the whole Constitution is a declaration of rights, which primarily and principally respect the general government intended to be formed by it. The rights of particular States and private citizens not being the object or subject

of the Constitution, they are only incidentally mentioned. In regard to the former, it would require a volume to describe them, as they extend to every subject of legislation, not included in the powers vested in Congress, and in regard to the latter, as all government is founded on the relinquishment of personal rights in a certain degree, there was a clear impropriety in being very particular about them. By such a particularity, the government might be embarrassed, and prevented from doing what the private as well as the public and general good of the citizens and States might require.

The public good, in which private is necessarily involved, might be hurt by too particular an enumeration; and the private good could suffer no injury from a deficient enumeration, because Congress could not injure the rights of private citizens without injuring their own; as they must, in their public as well as private character, participate equally with others in the consequences of their own acts. And by this most important circumstance, in connection with the checks above mentioned, the several States at large, and each citizen in particular, will be secured, as far as human wisdom can secure them, against the abuse of the delegated power.

In considering the Constitution, we shall consider it in all its parts, upon these general principles, which operate through the whole of it, and are equivalent to the most extensive bill of rights that can be formed.

These observations, which are principally of a general nature, but will apply to the most essential parts of the Constitution, are, with the utmost deference and respect, submitted to your candid consideration; with the hope that as they have influenced my own mind decidedly in favor of the Constitution, they will not be wholly unproductive of a like influence on the minds of the gentlemen of the Convention.

If the Constitution should be finally accepted and established, it will complete the temple of American liberty; and, like the keystone of a grand and magnificent arch, be the bond of union to keep all the parts firm, and compacted together. May this temple, sacred to liberty and virtue—sacred to justice, the first and greatest political virtue,—and built upon the broad and solid foundation of perfect union,—be dissoluble only

by the dissolution of nature; and may this Convention have the distinguished honor of erecting one of its pillars on that lasting foundation.

Dr. TAYLOR said, the consideration of the eighth section had taken up a great deal of time; that gentlemen had repeated the same arguments over and over again; and although the order of the Convention was, that the proposed Constitution should be considered by paragraphs, he was pleased, he said, to observe that the honorable gentleman last speaking, had gone into the matter at large; and therefore, he hoped that other gentlemen would take the same liberty, and that all further observations might be on the system at large.

Mr. PARSONS (of Newburyport.) Mr. President: A great variety of supposed objections have been made against vesting Congress with some of the powers defined in the eighth section. Some of the objectors have considered the powers as unnecessary, and others, that the people have not the proper security that these powers will not be abused. To most of these objections, answers, convincing in my opinion, to a candid mind, have been given. But as some of the objections have not been noticed, I shall beg the indulgence of the Convention, while I very briefly consider them. And as it is my intention to avoid all repetition, my observations will necessarily be unconnected and desultory.

It has been said that the grant in this section includes all the possessions of the people, and divests them of every thing; that such a grant is impolitic, for, as the poverty of an individual gaurds him against luxury and extravagance, so poverty in a ruler is a fence against tyranny and oppression. Sir, gentlemen do not distinguish between the government of an hereditary aristocracy, where the interest of the governors is very different from that of the subjects, and a government to be administered for the common good by the servants of the people, vested with delegated powers by popular elections at stated periods. The Federal Constitution establishes a government of the last description, and in this case the people divest themselves of nothing. The government and powers which the Congress can administer, are the mere result of a compact made by the people with each other for the common defence

and general welfare. To talk, therefore, of keeping Congress poor, if it means any thing, must mean a depriving the people themselves of their own resources. But if gentlemen will still insist, that these powers are a grant from the people, and consequently improper, let it then be observed that it is now too late to impede the grant. It is already completed. The Congress under the Confederation are invested with it by solemn compact. They have powers to demand what moneys and forces they judge necessary for the common defence and general welfare; powers as extensive as those proposed in this Constitution. But it may be said, as the ways and means are reserved to the several States, they have a check upon Congress by refusing a compliance with the requisitions. Sir, is this the boasted check—a check that can never be exercised but by perfidy and a breach of public faith—by a violation of the most solemn stipulations? It is this check that has embarrassed us at home, and made us contemptible abroad: and will any honest man plume himself upon a check which an honest man would blush to exercise?

It has been objected, that the Constitution provides no religious test by oath, and we may have in power unprincipled men, atheists and pagans. No man can wish more ardently than I do, that all our public offices may be filled by men who fear God and hate wickedness; but it must remain with the electors to give the government this security: an oath will not do it. Will an unprincipled man be entangled by an oath? Will an atheist or a pagan dread the vengeance of the Christian's God—a being, in his opinion, the creature of fancy and credulity? It is a solecism in expression. No man is so illiberal as to wish the confining places of honor or profit to any one sect of Christians; but what security is it to government, that every public officer shall swear that he is a Christian? For what will then be called Christianity? One man will declare that the Christian religion is only an illumination of natural religion, and that he is a Christian; another Christian will assert that all men must be happy hereafter in spite of themselves; a third Christian reverses the image, and declares, that let a man do all he can, he will certainly be punished in another world; and a fourth will tell us, that if a man use any force for the

common defence, he violates every principle of Christianity. Sir, the only evidence we can have of the sincerity and excellency of a man's religion, is a good life; and I trust that such evidence will be required of every candidate by every elector. That man who acts an honest part to his neighbor, will most probably conduct honorably towards the public.

It has been objected, that we have not so good security against the abuse of power under the new Constitution, as the Confederation gives us. It is my deliberate opinion, that we have a better security. Under the Confederation the whole power, executive and legislative, is vested in one body, in which the people have no representation, and where the States, the great and the small States, are equally represented; and all the checks the States have, is a power to remove and disgrace an unfaithful servant, after the mischief is perpetrated. Under this Constitution, an equal representation, immediately from the people, is introduced, who by their negative, and the exclusive right of originating money-bills, have the power to control the Senate, where the sovereignty of the States is represented. But it has been objected, that in the old Confederation the States could at any time recall their delegates, and there was a rotation. No essential benefit could be derived to the people from these provisions, but great inconveniences will result from them. It has been observed by a gentleman who has argued against the Constitution, that a representative ought to have an intimate acquaintance with the circumstances of his constituents, and after comparing them with the situation of every part of the Union, so conduct as to promote the common good. The sentiment is an excellent one, and ought to be engraved on the hearts of every representative. But what is the effect of the power of recalling? Your representative, with an operating revocation over his head, will lose all ideas of the general good, and will dwindle to a servile agent, attempting to secure local and partial benefits by cabal and intrigue. There are great and insuperable objections to a rotation. It is an abridgment of the rights of the people, and it may deprive them, at critical seasons, of the services of the most important characters in the nation. It deprives a man of honorable ambition, whose highest glory is the applause of his fellow-citizens, of an efficient

motive to great and patriotic exertions. The people individually have no method of testifying their esteem, but by a reëlection; and shall they be deprived of the honest satisfaction of wreathing for their friend and patriot a crown of laurel more durable than monarchy can bestow?

It has been objected, that the Senate are made too independent upon the State legislatures. No business under the Constitution of the Federal Convention could have been more embarrassing, than the constructing the Senate; as that body must conduct our foreign negotiations, and establish and preserve a system of national politics, an uniform adherence to which can alone induce other nations to negotiate with and confide in us. It is certain, the change of the men who compose it should not be too frequent, and should be gradual. At the same time suitable checks should be provided to prevent an abuse of power, and to continue their dependence on their constituents. I think the Convention have most happily extricated themselves from the embarrassment. Although the senators are elected for six years, yet the Senate, as a body composed of the same men, can exist only for two years, without the consent of the States. If the States think proper, one-third of that body may, at the end of every second year, be new men. When the Senate act as legislators they are controllable at all times by the representatives; and in their executive capacity, in making treaties and conducting the national negotiations, the consent of two-thirds is necessary, who must be united, to a man (which is hardly possible) or the new men biennially sent to the Senate, if the States choose, it can control them; and at all times there will also be one-third of the Senate, who at the expiration of two years must obtain a reëlection, or return to the mass of the people. And the change of men in the Senate will be so gradual as not to destroy or disturb any national system of politics.

It is objected, that it is dangerous to allow the Senate a right of proposing alterations or amendments in money-bills; that the Senate may by this power increase the supplies, and establish profuse salaries; that for these reasons the Lords in the British Parliament have not this power, which is a great security to the liberties of Englishmen. I was much surprised at hearing

this objection, and the grounds upon which it was supported. The reason why the Lords have not this power, is founded on a principle in the English Constitution, that the Commons alone represent the whole property of the nation; and as a money-bill is a grant to the king, none can make the grant but those who represent the property of the nation; and the negative of the Lords is introduced to check the profusion of the Commons, and to guard their own property. The manner of passing a money-bill, is conclusive evidence of these principles; for after the assent of the Lords, it does not remain with the clerk of the Parliament, but is returned to the Commons, who, by their Speaker, present it to the King, as the gift of the Commons. But every supposed control the Senate by this power may have over money-bills, they can have without it; for by private communications with the representatives, they may as well insist upon an increase of the supplies, or salaries, as by official communications. But had not the Senate this power, the Representatives might tack any foreign matter to a money-bill, and compel the Senate to concur or lose the supplies. This might be done in critical seasons, when the Senate might give way to the encroachments of the Representatives, rather than sustain the odium of embarrassing the affairs of the nation. The balance between the two branches of the legislature, would in this way be endangered, if not destroyed, and the Constitution materially injured. This subject was fully considered by the Convention for forming the Constitution of Massachusetts, and the provision made by that body, after mature deliberation, is introduced into the Federal Constitution.

It was objected, that by giving Congress a power of direct taxation, we give them power to destroy the State governments by prohibiting them from raising any moneys. But this objection is not founded in the Constitution. Congress have only a concurrent right with each State, in laying direct taxes, not an exclusive right; and the right of each State to direct taxation is equally extensive and perfect as the right of Congress. Any law, therefore, of the United States for securing to Congress more than a concurrent right with each State, is usurpation, and void.

It has been objected, that we have no bill of rights. If gen-

tlemen who make this objection would consider what are the supposed inconveniences resulting from the want of a declaration of rights, I think they would soon satisfy themselves that the objection has no weight. Is there a single natural right we enjoy, uncontrolled by our own legislature, that Congress can infringe? Not one. Is there a single political right secured to us by our Constitution, against the attempts of our own legislature, which we are deprived of by this Constitution? Not one, that I can reccollect. All the rights Congress can control, we have surrendered to our own legislature; and the only question is, whether the people shall take from their own legislature a certain portion of the several sovereignties, and unite them in one head, for the more effectual securing of the national prosperity and happiness.

The honorable gentleman from Boston, has stated at large, most of the checks the people have against usurpation and the abuse of power under the proposed Constitution; but from the abundance of his matter he has, in my opinion, omitted two or three, which I shall mention. The oath the several legislative, executive, and judicial officers of the several States take to support the Federal Constitution, is as effectual a security against the usurpation of the general government, as it is against the encroachment of the State governments. For an increase of the powers by usurpation, is as clearly a violation of the Federal Constitution, as a diminution of these powers by private encroachment; and that oath obliges the officers of the several States, as vigorously to oppose the one as the other. But there is another check, founded in the nature of the Union, superior to all parchment checks that can be invented. If there should be an usurpation, it will not be upon the farmer and merchant, employed and attentive only to their several occupations; it will be upon thirteen legislatures, completely organized, possessed of the confidence of the people, and having the means, as well as inclination, successfully to oppose it. Under these circumstances, none but madmen would attempt an usurpation. But, Sir, the people themselves have it in their power effectually to resist usurpation, without being driven to an appeal to arms. An act of usurpation is not obligatory, it is not law; and any man may be justified in his resistance. Let

him be considered as a criminal by the general government, yet only his own fellow-citizens can convict him; they are his jury; and if they pronounce him innocent, not all the powers of Congress can hurt him; and innocent they certainly will pronounce him, if the supposed law he resisted was an act of usurpation.

AFTERNOON.

As soon as the Convention met this afternoon, Mr. Nasson, in a short speech, introduced a motion to this effect: "That this Convention so far reconsider their former vote to discuss the Constitution by paragraphs, as to leave the subject at large, open for consideration." This motion met with a warm opposition from several parts of the house.

Mr. WALES said, that the time which had been spent in the discussion, had been well spent; and that he was much surprised to see gentlemen wishing thus to hurry the matter.

Mr. WEDGERY said, that necessity compelled them to hurry.

Mr. DALTON. Mr. President, we have been but six or seven days in the discussion of the Constitution. Sir, has not paragraph after paragraph been considered and explained? Has not great light been thrown on the articles we have considered? For my part, I profess to have received much light on them. We are now discussing the powers of Congress. Sir, shall we pass that over? Shall we pass over the article of the judiciary power without examination? I hope, Sir, it will be particularly inquired into. I am sorry to hear gentlemen allege that they have been a long time from home; and that the want of money necessitates them to wish for an early decision. Sir, have not the general court provided for the payment of the members of this Convention? and the treasurer, I am informed, is collecting money to comply with that provision. There are many parts which ought to be explained: I hope we shall attend to them with deliberation; and that for the sake of saving a little money, we may not pass over the Constitution without well considering it.

Judge SUMNER wished the motion might be withdrawn.

Mr. NASSON said he would withdraw his motion for the present; but mentioned his intention of again making it at ten o'clock to-morrow morning.

THURSDAY, January 24, 1788.

Mr. NASSON renewed his motion for reconsidering a former vote to discuss the Constitution by paragraphs, so that the whole might be taken up.

The Hon. Mr. ADAMS said he was one of those who had difficulties and doubts respecting some parts of the proposed Constitution. He had, he said, for several weeks after the publication of it, laid by all the writings in the public papers on the subject, in order to be enabled leisurely to consider them. He had, he said, still some difficulties on his mind; but that he had chosen rather to be an auditor, than an objector, and he had particular reasons therefor. As this was the case with him, and as others, he believed, were in a similar situation, he was desirous to have a full investigation of the subject; that thereby such might be confirmed, either in favor, or against the Constitution. He was therefore against the motion. We ought not, he said, to be stingy of our time, or the public money, when so important an object demanded them; and the public expect that we will not. He was sorry, he said, for gentlemen's necessities; but he had rather support the gentlemen who were thus necessitated, or lend them money to do it, than that they should hurry so great a subject. He therefore hoped that the question would be put, and that we should proceed as we began.

Hon. Mr. PITTS said it was impossible to consider the whole until the parts had been examined; our constituents, said he, have a right to demand of us the reasons which shall influence us to vote as we shall do: he must, he said, therefore, oppose the motion.

The honorable Mr. KING, Col. SMITH, and several other gentlemen, spoke against the motion.

Mr. WEDGERY opposed the motion's being winked out of

sight. He wished he said, the question might be put, that the sense of the Convention respecting it, might be taken.

Gen. THOMPSON said it was not essential how the matter was considered, but he wished to have the whole subject at large, open to discussion, so that every body might speak to it. A member, says he, gets up and speaks, but he is called to order, as not confining himself to the particular paragraph under debate, and this puts him out. In his opinion, he said, the Constitution, and the reasons which induced gentlemen to frame it, ought to have been sent to the several towns, to be considered by them. My town, says he, considered it seven hours, and after this there was not one in favor of it. If this had been done, we should have known the minds of the people on it; and should we dare, he asked, to act different from the sense of the people? It is strange, he said, that a system which its planners say, is so plain *that he that runs may read it*, should want so much explanation.

[The question being generally called for, the motion was put, and negatived without a return of the house. The endeavors of gentlemen to hush to silence, a small buzz of congratulation among a few citizens in the gallery, being mistaken by some of the members for a hiss, created a momentary agitation in the Convention; which, however, after a short conversation, subsided.]

The eighth section was again read.

The Hon. Mr. SEDGWICK went into a general answer to the objections which had been started against the powers to be granted to Congress by this section. He showed the absolute necessity there was that the body which had the security of the whole for their object, should have the necessary means allowed them to effect it; and in order to secure the people against the abuse of this power, the representatives and people, he said, are equally subject to the laws, and can therefore have but one and the same interest; that they never would lay unnecessary burdens, when they themselves must bear a part of them; and from the extent of their objects, their power ought necessarily to be illimitable. Men, says he, rarely do mischief for the sake of being mischievous. With respect to the power in this section to raise armies, the honorable gentleman said,

although gentlemen had thought it a dangerous power, which would be used for the purpose of tyranny, yet they did not object to the Confederation in this particular; and by this, Congress could have kept the whole of the late army in the field, had they seen fit. He asked, if gentlemen could think it possible, that the legislature of the United States should raise an army unnecessarily, which, in a short time, would be under the control of other persons? For if it was not to be under their control, what object could they have in raising it? It was, he said, a chimerical idea to suppose that a country like this could ever be enslaved. How is an army for that purpose to be obtained? From the freemen of the United States? They, certainly, said he, will know to what object it is to be applied. Is it possible, he asked, that an army could be raised for the purpose of enslaving themselves and their brethren? or, if raised, can they subdue a nation of freemen, who know how to prize liberty, and who have arms in their hands? He said it was a deception in gentlemen to say that this power could be thus used. The honorable gentleman said that in the Constitution, every possible provision against an abuse of power was made; and if gentlemen would candidly investigate for themselves, they would find that the evils they lament cannot ensue therefrom.

Mr. DAWES observed, upon the authority of Congress to raise and support armies, that all the objections which had been made by gentlemen against *standing* armies, were inapplicable to the present question; which was that as there must be an authority somewhere, to raise and support armies, whether that authority ought to be in Congress. As Congress are the legislature, upon the proposed plan of government, in them only, said he, should be lodged the power under debate. Some gentlemen seem to have confused ideas about standing armies. That the legislature of a country should not have power to raise armies, is a doctrine he had never heard before. Charles II. in England, kept in pay an army of five thousand men, and James II. augmented them to thirty thousand. This occasioned a great and just alarm through the nation; and accordingly when William III. came to the throne, it was declared to be unconstitutional to raise or keep a standing army in time

of peace, *without the consent of the legislature*. Most of our own State constitutions have borrowed this language from the English declaration of rights; but none of them restrain their lsgislatures from raising and supporting armies. Those who never objected to such an authority in Congress, as vested by the old Confederation, surely ought not to object to such a power in a Congress, where there is to be a new branch of representation, arising immediately from the people, and which branch alone must originate those very grants that are to maintain the army. When we consider that this branch is to be elected every two years, there is great propriety in its being restrained from making any grants in support of the army for a longer space than that of their existence. If the election of this popular branch were for seven years, as in England, the same men who would make the first grant, might also the second and third, for the continuance of the army; and such an acquaintance might exist between the representatives in Congress and the leaders of the army, as might be unfavorable to liberty. But the wisdom of the late Convention has avoided this difficulty. The army must expire of itself in two years after it shall be raised, unless renewed by representatives, who at that time will have just come fresh from the body of the people. It will share the same fate as that of a temporary law, which dies at the time mentioned in the act itself, unless revived by some future legislature.

Capt. DENCH said, it had been observed, and he was not convinced that the observation was wrong, that the grant of the powers in this section would produce a consolidation of the States; and the moment it begins, a dissolution of the State governments commences. If mistaken, he wished to be set right.

AFTERNOON.

Dr. TAYLOR asked, why there was to be a Federal town, over which Congress is to exercise exclusive legislation?

Hon. Mr. STRONG said, that every gentleman must think that the erection of a Federal town was necessary, wherein Congress might remain protected from insult. A few years ago, said the

honorable gentleman, Congress had to remove, because they were not protected by the authority of the State in which they were then sitting. He asked whether this Convention, though convened for but a short period, did not think it was necessary that they should have power to protect themselves from insult? much more so must they think it necessary to provide for Congress, considering they are to be a permanent body.

Hon. Mr. DAVIS (of Boston) said, it was necessary that Congress should have a permanent residence; and that it was the intention of Congress, under the Confederation, to erect a Federal town. He asked, would Massachusetts, or any other State, wish to give to New York, or the State in which Congress shall sit, the power to influence the proceedings of that body which was to act for the benefit of the whole, by leaving them liable to the outrages of the citizens of such States?

Dr. TAYLOR asked, why it need be ten miles square, and whether one mile square would not be sufficient.

Hon. Mr. STRONG said, Congress were not to exercise jurisdiction over a district of ten miles, but one *not exceeding* ten miles square.

Rev. Mr. STILLMAN said, that whatever were the limits of the district, it would depend on the cession of the legislature of one of the States.

Mr. DENCH said, that he wished further light on the subject; but that from the words, "We, the people," in the first clause ordaining this Constitution, he thought it was an actual consolidation of the States, and that, if he was not mistaken, the moment it took place, a dissolution of the State governments will also take place.

Gen. BROOKS (of Lincoln) rose, he said, to consider the idea suggested by the gentleman last speaking, that this Constitution would produce a dissolution of the State governments, or a consolidation of the whole, which, in his opinion, he said, was ill founded, or rather a loose idea. In the first place, says he, the Congress under this Constitution cannot be organized without repeated acts of the legislatures of the several States; and therefore, if the creating power is dissolved, the body to be created cannot exist. In the second place, says the General, it is impossible the general government can exist, unless the

governments of the several States are forever existing, as the qualifications of the electors of Federal representatives are to be the same as those of the electors of the most numerous branch of the State legislatures. It was, therefore, he said, impossible, that the State governments should be annihilated by the general government; and it was, he said, strongly implied, from that part of the section under debate, which gave Congress power to have exclusive jurisdiction over the Federal town, that they should exercise it over no other place. When we attend to the Constitution, we shall see, says the General, that the powers to be given to Congress amount only to a consolidation of the strength of the Union, and that private rights are not consolidated. The General mentioned the rights which Congress could not infringe upon, and said, that their power to define what was treason was much less than is vested in the legislature of this State, by our own Constitution; as it was confined, in the third section of Article III., to levying war, or adhering to, and comforting enemies, only. He mentioned the restraint upon Congress in the punishment of treason, and compared it with the extended powers lodged in the Parliament of Great Britain, on like crimes; and concluded by observing, that, as the United States guarantee to each State a republican form of government, the State governments were as effectually secured as though this Constitution should never be in force.

Hon. Mr. KING said, in reply to the inquiry respecting a Federal town, that there was now no place for Congress to reside in, and that it was necessary that they should have a permanent residence, where to establish proper archives, in which to deposit treaties, state papers, deeds of cession, &c.

Hon. Mr. SINGLETARY said, that all gentlemen had said about a bill of rights to the Constitution, was, that what is written is written; but he thought we were giving up all power, and that the States will be like towns in this State. Towns, says he, have a right to lay taxes to raise money, and the States possibly may have the same. We have now, says he, a good republican Constitution, and we do not want it guaranteed to us. He did not understand what gentlemen meant by Congress guaranteeing a republican form of government. He wished they would not play round the subject with their fine stories, like a fox round

a trap, but come to it. Why don't they say that Congress will guarantee our State Constitution?

Gen. THOMPSON said, Congress only meant to guarantee a *form* of government.

Hon. Mr. KING asked, whether, if the present Constitution of this State had been guaranteed by the United States, the honorable gentleman from Sutton would not have considered it as a great defect in the proposed Constitution, as it must have precluded the State from making any alteration in it, should they see fit so to do, at the time mentioned in the Constitution?

[Several other gentlemen spoke, in a desultory conversation, on various parts of the Constitution, in which several articles from the Constitution of this State, and the Confederation, were read; many questions asked the honorable gentlemen who framed the Constitution, to which answers apparently satisfactory were given.]

FRIDAY, January 25, 1788.

The eighth section still under debate, but the conversation continued desultory, and much attention was paid to the inquiries of gentlemen on different parts of the Constitution, by those who were in favor of it.

Mr. AMES, in a short discourse, called on those who stood forth in 1775, to stand forth now; to throw aside all interested and party views, to have one purse and one heart for the whole; and to consider, that as it was necessary then, so was it necessary now, to *unite*, or *die* we must.

Hon. Mr. SINGLETARY. Mr. President: I should not have troubled the Convention again, if some gentlemen had not called upon them that were on the stage in the beginning of our troubles, in the year 1775. I was one of them. I have had the honor to be a member of the court all the time, Mr. President, and I say, that if any body had proposed such a Constitution as this, in that day, it would have been thrown away at once. It would not have been looked at. We contended with Great Britain, some said, for a three-penny duty

on tea; but it was not that—it was because they claimed a right to tax us and bind us in all cases whatever. And does not this Constitution do the same? Does it not take away all we have, all our property? Does it not lay *all* taxes, duties, imposts and excises? And what more have we to give? They tell us Congress won't lay dry taxes upon us, but collect all the money they want by impost. I say there has always been a difficulty about impost. Whenever the general court was agoing to lay an impost, they would tell us it was more than trade could bear, that it hurt the fair trader, and encouraged smuggling; and there will always be the same objection—they won't be able to raise money enough by impost, and then they will lay it on the land, and take all we have got. These lawyers, and men of learning, and moneyed men, that talk so finely, and gloss over matters so smoothly, to make us, poor illiterate people, swallow down the pill, expect to get into Congress themselves; they expect to be the managers of this Constitution, and get all the power and all the money into their own hands, and then they will swallow up all us little folks, like the great leviathan, Mr. President; yes, just as the whale swallowed up Jonah. This is what I am afraid of; but I won't say any more at present, but reserve the rest to another opportunity.

Hon. Mr. SMITH. Mr. President: I am a plain man and get my living by the plough. I am not used to speak in public, but I beg your leave to say a few words to my brother plough-joggers in this house. I have lived in a part of the country where I have known the worth of good government by the want of it. There was a black cloud that rose in the east last winter, and spread over the west. [Here Mr. Wedgery interrupted: Mr. President, I wish to know what the gentleman means by the east?] I mean, Sir, the county of Bristol. The cloud rose there, and burst upon us, and produced a dreadful effect. It brought on a state of anarchy, and that leads to tyranny. I say, it brought anarchy. People that used to live peaceably, and were before good neighbors, got distracted, and took up arms against government. [Here Mr. Kinsley called to order, and asked, what had the history of last winter to do with the Constitution? Several gentlemen, and among the rest, the Hon. Mr. Adams, said the gentleman was in order, let him go on in his own way.]

I am agoing, Mr. President, to show you, my brother farmers, what were the effects of anarchy, that you may see the reasons why I wish for good government. People, I say, took up arms, and then, if you went to speak to them, you had the musket of death presented to your breast. They would rob you of your property, threaten to burn your houses; oblige you to be on your guard night and day; alarms spread from town to town; families were broke up; the tender mother would cry: O, my son is among them! What shall I do for my child! Some were taken captive, children taken out of their schools and carried away. Then we should hear of an action, and the poor prisoners were set in the front, to be killed by their own friends. How dreadful, how distressing was this! Our distress was so great that we should have been glad to snatch at any thing that looked like a government, for protection. Had any person, that was able to protect us, come and set up his standard, we should all have flocked to it, even if it had been a *monarch*, and that monarch might have proved a tyrant; so that you see that anarchy leads to tyranny; it is better to have *one* tyrant than so many at once.

Now, Mr. President, when I saw this Constitution, I found that it was a cure for these disorders. It was just such a thing as we wanted. I got a copy of it and read it over and over. I had been a member of the Convention to form our own State Constitution, and had learnt something of the checks and balances of power, and I found them all here. I did not go to any lawyer, to ask his opinion; we have no lawyer in our town, and we do well enough without. I formed my own opinion, and was pleased with this Constitution. My honorable old daddy there (pointing to Mr. Singletary) won't think that I expect to be a Congressman, and swallow up the liberties of the people. I never had any post, nor do I want one, and before I am done you will think that I don't deserve one. But I don't think the worse of the Constitution because lawyers, and men of learning, and moneyed men, are fond of it. I don't suspect that they want to get into Congress and abuse their power. I am not of such a jealous make. They that are honest men themselves are not apt to suspect other people. I don't know why our constituents have not as good a right to be

jealous of us, as we seem to be of the Congress, and I think those gentlemen who are so very suspicious that as soon as a man gets into power he turns rogue, had better look at home.

We are by this Constitution allowed to send ten members to Congress. Have we not more than that number fit to go? I dare say, if we pick out ten, we shall have another ten left, and I hope ten times ten—and will not these be a check upon those that go? Will they go to Congress and abuse their power, and do mischief, when they know that they must return and look the other ten in the face, and be called to account for their conduct? Some gentlemen think that our liberty and property are not safe in the hands of moneyed men, and men of learning. I am not of that mind.

Brother farmers, let us suppose a case now: Suppose you had a farm of fifty acres, and your title was disputed, and there was a farm of five thousand acres joined to you, that belonged to a man of learning, and his title was involved in the same difficulty; would not you be glad to have him for your friend, rather than to stand alone in the dispute? Well, the case is the same; these lawyers, these moneyed men, these men of learning, are all embarked in the same cause with us, and we must all swim or sink together; and shall we throw the Constitution overboard because it does not please us alike? Suppose two or three of you had been at the pains to break up a piece of rough land, and sow it with wheat; would you let it lie waste, because you could not agree what sort of a fence to make? Would it not be better to put up a fence that did not please every one's fancy, rather than not fence it at all, or keep disputing about it, until the wild beasts came in and devoured it. Some gentlemen say—don't be in a hurry, take time to consider, and don't take a leap in the dark. I say—take things in time, gather fruit when it is ripe. There is a time to sow, and a time to reap. We sowed our seed when we sent men to the Federal Convention; now is the harvest, now is the time to reap the fruit of our labor, and if we don't do it now, I am afraid we never shall have another opportunity.

Mr. Parsons considered the several charges of ambiguity which gentlemen had laid to the Constitution, and with a great deal of accuracy stated the obvious meaning of the clauses thus

supposed to be ambiguous. He concluded his explanation by saying, that no compositions which men can pen, could be formed, but what would be liable to the same charge.

AFTERNOON.

Hon. Mr. DALTON. Mr. President: It has been demanded by some gentlemen in opposition to this Constitution, why those who were opposed to the augmentation of the powers of Congress a few years since, should now be the warmest advocates for the powers to be granted by the section under debate. Sir, I was opposed to the five per cent. impost being granted to Congress, and I conceived that such a grant, under the Confederation, would produce great difficulties and embarrassments. But, Sir, as Congress is, by the proposed Constitution, to be differently constructed; as a proportionate voice of the States in that body is to be substituted for the present equal (or rather unequal) one—my objections will be removed. In my opinion, the delegating of power to a government, in which the people have so many checks, will be perfectly safe, and consistent with the preservation of their liberties.

Mr. AMES said, that in the course of the debates, gentlemen had justified the Confederation; but he wished to asked, whether there was any danger in this Constitution, which is not in the Confederation? If gentlemen are willing to confederate, why, he asked, ought not Congress to have the powers granted by this section. In the Confederation, said Mr. Ames, the checks are wanting, which are to be found in this Constitution. And the fears of gentlemen, that this Constitution will provide for a permanent aristocracy, are therefore ill founded; for the rulers will always be dependent on the people, and, like the insects of a sunshine day, may, by the breath of their displeasure, be annihilated.

Mr. WEDGERY. Mr. President: Enough has, I think, been said on the eighth section. It has been repeated over and over again, that the adoption of the Constitution will please all ranks of people; that the present inefficiency of the Confederation is obvious; and that blessed things will surely be the result of this Constitution. Many say, ask the merchants; ask the yeomanry.

But they do not tell us what the answer of these will be. All we hear is, that the merchant and farmer will flourish, and that the mechanic and tradesman are to make their fortunes directly, if the Constitution goes down. Is it, Sir, because the seat of government is to be carried to Philadelphia? Who, Sir, is to pay the debts of the yeomanry, and others? Sir, when oil will quench fire, I will believe all this, and not till then. On the contrary, I think the adopting this Constitution makes against *them*, though it may be something in favor of the merchants. Have not Congress power to tax polls?—for there is no other way of levying a dry tax; and by this means the poor will pay as much as the rich. Gentlemen say we are undone, and that there is no resource, unless this Constitution is adopted. I cannot see why we need swallow a great bone for the sake of a little meat, which, if it should happen to stick in our throats, can never be got out. Some gentlemen have given out, that we are surrounded by enemies, that we owe debts, and that the nations will make war against us, and take our shipping, &c. Sir, I ask, if this is a fact? or whether gentlemen think as they say? I believe they do not. For I believe they are convinced, that the nations we owe do not wish us at present to pay more than the interest.

Mr. Wedgery, after considering some other observations which had dropped from gentlemen in the course of the debates on the eighth section, concluded by saying, that he could not see the great danger that would arise from rejecting the Constitution.

The Hon. Mr. GORHAM adverted to the suggestion of some gentlemen, that by granting the impost to Congress, this State would pay more than its proportion; and said, that it could be made an objection as much against one government as another. But he believed, gentlemen would accede that the impost was a very proper tax. As to the tax on polls, which the gentleman from New Gloucester had said would take place, he saw, he said, no article in the Constitution which warranted the assertion. It was, he said, a distressful tax, and would never be adopted. By impost and excise, the man of luxury will pay, and the middling and poor parts of the community, who live by their industry, will go clear; and as this would be the easiest

method of raising a revenue, it was the most natural to suppose it would be resorted to. Twenty per cent., he said, may as well be paid for some luxuries, as five; nay, one hundred per cent. impost on some articles might be laid on, as is done in England and France. How often, observed the honorable gentleman, has Mr. Adams tried to accomplish a commercial treaty with England! But they think Congress but a feeble power. They prohibit our oil, fish, lumber, pot and pearl ashes, from being imported into their territories, in order to favor Nova Scotia, for they know we cannot make general retaliating laws. They have a design in Nova Scotia to rival us in the fishery, and our situation at present favors their design. From the abundance of our markets we could supply them with beef, butter, pork, &c.; but they lay what restrictions on them they please, which they dare not do, was there an adequate power lodged in the general government to regulate commerce.

Mr. JONES, Col. PORTER and Col. VARNUM said a few words in favor of the article, when the Convention proceeded to the consideration of the ninth section.

Mr. NEAL (from Kittery) went over the ground of objection to this section, on the idea, that the slave trade was allowed to be continued for twenty years. His profession, he said, obliged him to bear witness against any thing that should favor the making merchandise of the bodies of men; and unless his objection was removed, he could not put his hand to the Constitution. Other gentlemen said, in addition to this idea, that there was not even a provision that the negroes ever shall be free; and

Gen. THOMPSON exclaimed—Mr. President: Shall it be said, that after we have established our own independence and freedom, we make slaves of others? O, Washington, what a name has he had! How he has immortalized himself! But he holds those in slavery who have as good right to be free as he has. He is still for self, and, in my opinion, his character has sunk fifty per cent.

On the other side, gentlemen said, that the step taken in this article, towards the abolition of slavery, was one of the beauties of the Constitution. They observed, that in the Confederation there was no provision whatever for its ever being abolished;

but this Constitution provides that Congress may, after twenty years, totally annihilate the slave trade; and that, as all the States, except two, have passed laws to this effect, it might reasonably be expected that it would then be done. In the interim, all the States were at liberty to prohibit it.

SATURDAY, January 26, 1788.

[The debate on the ninth section still continued desultory, and consisted of similar objections and answers thereto, as had before been used. Both sides deprecated the slave trade in the most pointed terms. On one side it was pathetically lamented, by Mr. Nasson, Major Lusk, Mr. Neal, and others, that this Constitution provided for the continuation of the slave trade for twenty years. On the other, the Hon. Judge Dana, Mr. Adams, and others, rejoiced that a door was now to be opened, for the annihilation of this odious, abhorrent practice, in a certain time.]

The paragraph which provides that "the privilege of the writ of *habeas corpus* shall not be suspended, unless in cases of rebellion or invasion," was read, when

Gen. THOMPSON asked the President to please to proceed. We have, says he, read the book often enough; it is a consistent piece of inconsistency.

Hon. Mr. ADAMS, in answer to an inquiry of the Hon. Mr. Taylor, said that this power, given to the general government to suspend this privilege in cases of rebellion and invasion, did not take away the power of the several States to suspend it, if they see fit.

Dr. TAYLOR asked why this darling privilege was not expressed in the same manner it was in the Constitution of Massachusetts. [Here the honorable gentleman read the paragraph respecting it, in the Constitution of this State, and then the one in the proposed Constitution.] He remarked on the difference of expression, and asked why the time was not limited.

Judge DANA said, the answer, in part, to the honorable gentleman must be, that the same men did not make both Consti-

tutions—that he did not see the necessity or great benefit of limiting the time. Supposing it had been, as in our Constitution, "not exceeding twelve months," yet, as our legislature can, so might the Congress, continue the suspension of the writ from time to time, or from year to year. The safest and best restriction, therefore, arises from the nature of the cases in which Congress are authorized to exercise that power at all, namely, in those of rebellion or invasion. These are clear and certain terms; facts of public notoriety. And whenever these shall cease to exist, the suspension of the writ must necessarily ceas also. He thought the citizen had a better security for his privilege of the writ of *habeas corpus* under the Federal than under the State Constitution; for our legislatur e may suspen the writ as often as they judge "the most urgent and pressing occasions" call for it. He hoped these short observations would satisfy the honorable gentleman's inquiries, otherwise he should be happy in endeavoring to do it, by going more at large into the subject.

Judge SUMNER said, that this was a restriction on Congress, that the writ of *habeas corpus* should not be suspended, except in cases of rebellion and invasion. The learned judge then explained the nature of this writ. When a person, said he, is imprisoned, he applies to a judge of the supreme court—the judge issues his writ to the jailer, calling upon him to have the body of the person imprisoned, before him, with the crime on which he was committed. If it then appears that the person was legally committed, and that he was not bailable, he is remanded to prison; if illegally confined, he is enlarged. This privilege, he said, is essential to freedom—and therefore the power to suspend it is restricted. On the other hand the State, he said, might be involved in danger: the worst enemy may lay plans to destroy us, and so artfully as to prevent any evidence against him, and might ruin the country, without the power to suspend the writ was thus given. Congress have only power to suspend the privilege to persons committed by their authority. A person committed under the authority of this State, will still have a right to this writ.

MONDAY, January 28, 1788.

This, and the two following days, were taken up in considering the several sections of the second and third articles—every one of which was objected to by those who were opposed to the Constitution; and the objections were obviated by gentlemen in favor it. We do not think it essential to go into a minute detail of the conversation; as, in the speeches on the grand question, the field is again gone over. We can only say, that with the utmost attention every objection, however trifling, was answered; and that the unremitted endeavors of gentlemen who advocated the Constitution, to convince those who were in error, were not without effect. The main objections to the judiciary power, are contained in the following speech delivered on Wednesday, January 30.

Mr. HOLMES. Mr. President: I rise to make some remarks on the paragraph under consideration, which treats of the judiciary power.

It is a maxim universally admitted, that the safety of the subject consists in having a right to a trial as free and impartial as the lot of humanity will admit of. Does the Constitution make provision for such a trial? I think not: for in a criminal process a person shall not have a right to insist on a trial in the vicinity where the fact was committed, where a jury of the peers would, from their local situation, have an opportunity to form a judgment of the character of the person charged with the crime, and also to judge of the credibility of the witnesses. There a person must be tried by a jury of strangers—a jury who may be interested in his conviction; and where he may, by reason of the distance of his residence from the place of trial, be incapable of making such a defence as he is in justice entitled to, and which he could avail himself of, if his trial was in the same county where the crime is said to have been committed.

These circumstances, as horrid as they are, are rendered still more dark and gloomy, as there is no provision made in the Constitution to prevent the attorney-general from filing information against any person, whether he is indicted by the grand jury or not; in consequence of which the most innocent person

in the Commonwealth may be taken by virtue of a warrant issued in consequence of such information, and dragged from his home, his friends, his acquaintance, and confined in prison, until the next session of the court which has jurisdiction of the crime with which he is charged, (and how frequent those sessions are to be, we are not yet informed of,) and after long, tedious and painful imprisonment, though acquitted on trial, may have no possibility to obtain any kind of satisfaction for the loss of his liberty, the loss of his time, great expenses, and perhaps cruel sufferings.

But what makes the matter still more alarming is that the mode of criminal process is to be pointed out by Congress, and they have no constitutional check on them, except that the trial is to be a jury; but who this jury is to be, how qualified, where to live, how appointed, or by what rules to regulate their procedure, we are ignorant of as yet; whether they are to live in the county where the trial is; whether they are to be chosen by certain districts; or whether they are to be appointed by the sheriff, *ex officio;* whether they are to be for one session of the court only, or for a certain term of time, or for good behavior, or during pleasure; are matters which we are entirely ignorant of as yet.

The mode of trial is altogether indetermined. Whether the criminal is to be allowed the benefit of counsel; whether he is to be allowed to meet his accuser face to face; whether he is to be allowed to confront the witnesses, and have the advantage of cross-examination, we are not yet told.

These are matters by no means of small consequence, yet we have not the smallest constitutional security that we shall be allowed the exercise of these privileges, neither is it made certain in the Constitution, that a person, charged with a crime, shall have the privilege of appearing before the court or jury which is to try him.

On the whole, when we fully consider this matter, and fully investigate the powers granted, explicitly given, and specially delegated, we shall find Congress possessed of powers enabling them to institute judicatories, little less inauspicious than a certain tribunal in Spain, which has long been the disgrace of Christendom: I mean that diabolical institution, the *Inquisition.*

What gives an additional glare of horror to these gloomy circumstances is, the consideration that Congress have to ascertain, point out, and determine, what kind of punishments shall be inflicted on persons convicted of crimes. They are no where restrained from inventing the most cruel and unheard of punishments, and annexing them to crimes, and there is no constitutional check on them, but that racks and gibbets may be amongst the most mild instruments of their discipline.

There is nothing to prevent Congress from passing laws which shall compel a man who is accused or suspected of a crime, to furnish evidence against himself, and even from establishing laws which shall order the court to take the charge exhibited against a man for truth, unless he can furnish evidence of his innocence.

I do not pretend to say Congress *will* do this, but, Sir, I undertake to say that Congress (according to the powers proposed to be given them by the Constitution) *may* do it; and if they do not, it will be owing entirely—I repeat it, it will be owing entirely to the goodness of the men, and not in the least degree owing to the goodness of the Constitution.

The framers of our State Constitution took particular care to prevent the general court from authorizing the judicial authority to issue a warrant against a man for a crime, unless his being guilty of the crime was supported by oath or affirmation, prior to the warrant being granted; why it should be esteemed so much more safe to intrust Congress with the power of enacting laws, which it was deemed so unsafe to intrust our State legislature with, I am unable to conceive.

Mr. GORE observed, in reply to Mr. Holmes, that it had been the uniform conduct of those in opposition to the proposed form of government, to determine, in every case where it was possible that the administrators thereof could do wrong, that they would do so, although it were demonstrable that such wrong would be against their own honor and interest, and productive of no advantage to themselves. On this principle alone have they determined that the trial by jury would be taken away in civil cases, when it had been clearly shown that no words could be adopted, apt to the situation and customs of each State in this particular. Jurors are differently chosen in different

States, and in point of qualification the laws of the several States are very diverse; not less so, in the causes and disputes which are entitled to trial by jury. What is the result of this? That the laws of Congress may and will be conformable to the local laws in this particular, although the Constitution could not make an universal rule equally applying to the customs and statutes of the different States. Very few governments (certainly not this) can be interested in depriving the people of trial by jury in questions of *meum et tuum*. In criminal cases alone are they interested to have trial under their own control; and in such cases the Constitution expressly stipulates for trial by jury. But then, says the gentleman from Rochester, (Mr. Holmes,) to the safety of life it is indispensably necessary the trial of crimes should be in the vicinity—and the vicinity is construed to mean county. This is very incorrect, and gentlemen will see the impropriety, by referring themselves to the different local divisions and districts of the several States. But further, said the gentleman, the idea that the jury, coming from the neighborhood, and knowing the character and circumstances of the party in trial, is promotive of justice, on reflection will appear not founded in truth. If the jury judge from any other circumstances but what are part of the cause in question, they are not impartial. The great object is, to determine on the real merits of the cause, uninfluenced by any personal considerations. If, therefore, the jury could be perfectly ignorant of the person in trial, a just decision would be more probable. From such motives did the wise Athenians so constitute the famed Areopagus, that when in judgment, this court should sit at midnight, and in total darkness, that the decision might be on the thing, and not on the person. Further, said the gentleman, it has been said, because the Constitution does not expressly provide for an indictment by grand jury in criminal cases, therefore some officer under this government will be authorized to file informations and bring any man to jeopardy of his life, and indictment by grand jury will be disused. If gentlemen who pretend such fears, will look into the Constitution of Massachusetts, they will see that no provision is therein made for an indictment by grand jury, or to oppose the danger of an attorney-general filing informations; yet no difficulty or

danger has arisen to the people of this Commonwealth from this defect, if gentlemen please to call it so. If gentlemen would be candid, and not consider that wherever Congress may possibly abuse power, that they certainly will, there would be no difficulty in the minds of any in adopting the proposed Constitution.

Mr. DAWES said, he did not see that the right of trial by jury was taken away by the article. The word *court* does not, either by a popular or technical construction, exclude the use of a jury to try facts. When people in common language talk of a trial at the court of common pleas, or the supreme judicial court, do they not include all the branches and members of such court, the jurors, as well as the judges? They certainly do, whether they mention the jurors expressly or not. Our State legislature have construed the word court in the same way; for they have given appeals from a justice of peace to the court of common pleas, and from thence to the supreme court, without saying any thing of the jury. But in cases which, almost time out of mind, have been tried without jury, there the jurisdiction is given expressly to the justices of a particular court, as may be instanced by suits upon the absconding act, so called.

Gentlemen have compared the article under consideration to that power which the British claimed, and which we resisted at the Revolution, namely, the power of trying the Americans without a jury. But surely there is no parallel in the cases; it was *criminal* cases in which they attempted to make this abuse of power. Mr. Dawes mentioned one example of this, which, though young, he well remembered, and that was the case of Nickerson, the pirate, who was tried without a jury, and whose judges were the governors of Massachusetts, and of some neighboring provinces, together with Admiral Montague, and some gentlemen of distinction. Although this trial was without a jury, yet, as it was a trial upon the civil law, there was not so much clamor about it, as otherwise there might have been; but still it was disagreeable to the people, and was one ground of the then complaints. But the trial by jury was not attempted to be taken from *civil* causes. It was no object of power, whether one subject's property was lessened, while

another's was increased; nor can it now be an object with the Federal legislature. What interest can they have in constituting a judiciary, to proceed in civil causes without a trial by jury? In criminal causes by the proposed government, there must be a jury. It is asked, why is not the Constitution as explicit in securing the right of jury in civil, as in criminal cases? The answer is: Because it was out of the power of the Convention. The several States differ so widely in their modes of trial, some States using a jury in causes wherein other States employ only their judges, that the Convention have very wisely left it to the Federal legislature to make such regulations as shall, as far as possible, accommodate the whole. Thus our own State Constitution authorizes the general court to erect judicatories, but leaves the nature, number and extent of them wholly to the discretion of the legislature. The bill of rights indeed secures the trial by jury in civil causes, except in cases where a contrary practice has obtained. Such a clause as this some gentlemen wish were inserted in the proposed Constitution; but such a clause would be absurd in that Constitution, as has been clearly stated by the honorable gentleman from Charlestown, (Mr. Gorham,) because the "exception of all cases where a jury have not heretofore been used," would include almost all cases that could be mentioned, when applied to all the States, for they have severally differed in the kinds of causes where they have tried without jury.

Gen. HEATH. Mr. President: By my indisposition, and absence, I have lost several important opportunities. I have lost the opportunity of expressing my sentiments, with a candid freedom, on some of the paragraphs of the system, which have lain heavy on my mind. I have lost the opportunity of expressing my warm approbation on some of the paragraphs. I have lost the opportunity of asking some questions for my own information, touching some of the paragraphs, and which naturally occurred, as the system unfolded. I have lost the opportunity of hearing those judicious, enlightening and convincing arguments, which have been advanced during the investigation of the system. This is my misfortune, and I must bear it. The paragraph respecting the migration or importation of such persons as any of the States now existing shall think proper to

admit, &c., is one of those considered during my absence, and I have heard nothing on the subject, save what has been mentioned this morning; but I think the gentlemen who have spoken, have carried the matter rather too far on both sides. I apprehend that it is not in our power to do any thing for or against those who are in slavery in the southern States. No gentleman within these walls detests every idea of slavery more than I do; it is generally detested by the people of this Commonwealth; and I ardently hope that the time will soon come, when our brethren in the southern States will view it as we do, and put a stop to it; but to this we have no right to compel them. Two questions naturally arise, if we ratify the Constitution: Shall we do any thing by our act to hold the blacks in slavery? or shall we become partakers of other men's sins? I think neither of them. Each State is sovereign and independent to a certain degree, and they have a right, and will regulate their own internal affairs, as to themselves appears proper; and shall we refuse to eat, or to drink, or to be united, with those who do not think or act just as we do? Surely not. We are not in this case partakers of other men's sins, for in nothing do we voluntarily encourage the slavery of our fellow men. A restriction is laid on the Federal government, which could not be avoided, and a union take place. The Federal Convention went as far as they could. The migration or importation, &c., is confined to the States *now existing* only; new States cannot claim it. Congress, by their ordinance for erecting new States, some time since declared that the new States shall be republican, and that there shall be no slavery in them. But whether those in slavery in the southern States will be emancipated after the year 1808, I do not pretend to determine. I rather doubt it.

After the fifth article was read at the table,

The Hon. Mr. KING observed, that he believed gentlemen had not, in their objections to the Constitution, recollected that this article was a part of it, for many of the arguments of gentlemen were founded on the idea of future amendments being impracticable. The honorable gentleman observed on the superior excellence of the proposed Constitution, in this particular, and called upon gentlemen to produce an instance in any other national Constitution, where the people had so fair an

opportunity to correct any abuse which might take place in the future administration of the government under it.

Dr. JARVIS. Mr. President: I cannot suffer the present article to be passed, without rising to express my entire and and perfect approbation of it. Whatever may have been my private opinion of any other part, or whatever faults or imperfections I have remarked, or fancied I have seen, in any other instance, here, Sir, I have found complete satisfaction. This has been a resting-place, on which I have reposed myself in the fullest security, whenever a doubt has occurred, in considering any other passage in the proposed Constitution. The honorable gentleman last speaking, has called upon those persons who are opposed to our receiving the present system, to show another government in which such a wise precaution has been taken to secure to the people the right of making such alterations and amendments, in a peaceable way, as experience shall have proved to be necessary. Allow me to say, Sir, as far as the narrow limits of my own information extend, I know of no such example. In other countries, Sir, unhappily for mankind, the history of their respective revolutions has been written in blood; and it is in this only that any great or important change in our political situation has been effected, without public commotions. When we shall have adopted the Constitution before us, we shall have in this article an adequate provision for all the purposes of political reformation. If, in the course of its operation, this government shall appear to be too severe, here are the means by which this severity may be attempered and corrected; if, on the other hand, it shall become too languid in its movements, here, again, we have a method designated, by which a new portion of health and spirit may be infused in the Constitution.

There is, Sir, another view which I have long since taken of this subject, which has produced the fullest conviction in my own mind, in favor of our receiving the government which we have now in contemplation. Should it be rejected, I beg gentlemen would observe, that a concurrence of all the States must be had before a new Convention can be called to form another Constitution, but the present article provides, upon nine States concurring in any alteration or amendment to be proposed, either by Congress or any future Convention, that this alteration

shall be a part of the Constitution, equally powerful and obligatory with any other part. If it be alleged that this union is not likely to happen, will it be more likely that an union of a greater number of concurring sentiments may be had, as must be, in case we reject the Constitution in hopes of a better? But that this is practicable, we may safely appeal to the history of this country as a proof, in the last twenty years. We have united against the British—we have united in calling the late Federal Convention—and we may certainly unite again in such alterations as in reason shall appear to be important for the peace and happiness of America.

In the Constitution of this State, the article providing for alterations is limited in its operation to a given time; but in the present Constitution, the article is perfectly at large, unconfined to any period, and may admit of measures being taken, in any moment after it is adopted. In this point it has undoubtedly the advantage. I shall not sit down, Sir, without repeating that it is clearly more difficult for twelve States to agree to another Convention, than for nine to unite in favor of amendments, so it is certainly better to receive the present Constitution, in the hope of its being amended, than it would be to reject it altogether, with perhaps, the vain expectation of obtaining another more agreeable than the present. I see no fallacy in the argument, Mr. President; but if there is, permit me to call upon any gentleman to point it out, in order that it may be corrected; for at present it seems to me of such force as to give me entire satisfaction.

THURSDAY, January 31, 1788.

In the conversation on Thursday, on the sixth article, which provides that "no religious test shall ever be required, as a qualification to any office," &c., several gentlemen urged that it was a departure from the principles of our forefathers, who came here for the preservation of their religion; and that it would admit deists, atheists, &c. into the general government; and people being apt to imitate the examples of the

court, these principles will be disseminated, and of course a corruption of morals ensue. Gentlemen on the other side applauded the liberality of the clause; and represented, in striking colors, the impropriety and almost impiety of the requisition of a test, as practised in Great Britain and elsewhere. In this conversation, the following is the substance of the observations of the

Rev. Mr. SHUTE. Mr. President: To object to the latter part of the paragraph under consideration, which excludes a religious test, is, I am sensible, very popular; for the most of men, somehow, are rigidly tenacious of their own sentiments in religion, and disposed to impose them upon others as the standard of truth. If, in my sentiments upon the point in view, I should differ from some in this honorable body, I only wish from them the exercise of that candor with which true religion is adapted to inspire the honest and well-disposed mind.

To establish a religious test as a qualification for offices in the proposed Federal Constitution, appears to me, Sir, would be attended with injurious consequences to some individuals, and with no advantage to the whole.

By the injurious consequences to individuals, I mean, that some, who in every other respect are qualified to fill some important post in government, will be excluded by their not being able to stand the religious test; which I take to be a privation of part of their civil rights.

Nor is there to me any conceivable advantage, Sir, that would result to the whole from such a test. Unprincipled and dishonest men will not hesitate to subscribe to any thing that may open the way for their advancement, and put them into a situation the better to execute their base and iniquitous designs. Honest men alone, therefore, however well qualified to serve the public, would be excluded by it, and their country be deprived of the benefit of their abilities.

In this great and extensive empire, there is, and will be, a great variety of sentiments in religion among its inhabitants. Upon the plan of a religious test, the question I think, must be, who shall be excluded from national trusts? Whatever answer bigotry may suggest, the dictates of candor and equity, I conceive, will be, *None*.

Far from limiting my charity and confidence to men of my own denomination in religion, I suppose, and I believe, Sir, that there are worthy characters among men of every denomination—among the Quakers, the Baptists, the Church of England, the Papists, and even among those who have no other guide in the way to virtue and heaven, than the dictates of natural religion.

I must therefore think, Sir, that the proposed plan of government, in this particular, is wisely constructed: that as all have an equal claim to the blessings of the government under which they live, and which they support, so none should be excluded from them for being of any particular denomination in religion.

The presumption is, that the eyes of the people will be upon the faithful in the land, and, from a regard to their own safety, they will choose for their rulers men of known abilities—of known probity—of good moral characters. The apostle Peter tells us, that God is no respecter of persons, but in every nation he that feareth him and worketh righteousness, is acceptable to him. And I know of no reason, why men of such a character, in a community, of whatever denomination in religion, *cæteris paribus*, with other suitable qualifications, should not be acceptable to the people, and why they may not be employed by them with safety and advantage in the important offices of government. The exclusion of a religious test in the proposed Constitution, therefore, clearly appears to me, Sir, to be in favor of its adoption.

Col. JONES (of Bristol) thought, that the rulers ought to believe in God or Christ; and that, however a test may be prostituted in England, yet he thought if our public men were to be of those who had a good standing in the church, it would be happy for the United States; and that a person could not be a good man without being a good Christian.

The conversation on the Constitution by paragraphs being ended,

Mr. PARSONS moved, that this Convention do assent to and ratify this Constitution.

Mr. NEAL rose and said, that as the Constitution at large was now under consideration, he would just remark, that the article

which respected the Africans was the one which lay on his mind; and unless his objections to that were removed, it must, how much soever he liked the other parts of the Constitution, be a sufficient reason for him to give his negative to it.

Col. JONES said, that one of his principal objections was, the omission of a religious test.

Rev. Mr. PAYSON. Mr. President: After what has been observed relative to a religious test by gentlemen of acknowledged abilities, I did not expect it would again be mentioned, as an objection to the proposed Constitution, that such a test was not required as a qualification for office. Such were the abilities and integrity of the gentlemen who constructed the Constitution, as not to admit of the presumption that they would have betrayed so much vanity as to attempt to erect bulwarks and barriers to the throne of God. Relying on the candor of this Convention, I shall take the liberty to express my sentiments on the nature of a religious test, and shall endeavor to do it in such propositions as will meet the approbation of every mind.

The great object of religion being God supreme, and the seat of religion in man being the heart or conscience, i. e. the reason God has given us, employed on our moral actions, in their most important consequences, as related to the tribunal of God, hence I infer, that God alone is the God of the conscience, and consequently, attempts to erect human tribunals for the consciences of men, are impious encroachments upon the prerogatives of God. Upon these principles, had there been a religious test, as a qualification for office, it would, in my opinion, have been a great blemish to the instrument.

Gen. HEATH. Mr. President: After a long and painful investigation of the Federal Constitution, by paragraphs, this honorable Convention are drawing nigh to the ultimate question: a question as momentous as ever invited the attention of man. We are soon to decide on a system of government, digested, not for the people of the Commonwealth of Massachusetts only; not for the present people of the United States only; but, in addition to these, for all those States which may hereafter rise into existence within the jurisdiction of the United States, and for millions of people yet unborn: a system of government, not for

a nation of slaves, but for a people as free and as virtuous as any on earth; not for a conquered nation, subdued to our will, but for a people who have fought, who have bled, and who have conquered; who, under the smiles of heaven, have established their independence and sovereignty, and have taken equal rank among the nations of the earth. In short, Sir, it is a system of government for ourselves, and for our children, for all that is near and dear to us in life; and on the decision of the question is suspended our political prosperity or infelicity, perhaps our existence as a nation. What can be more solemn? What can be more interesting? Every thing depends on our union. I know that some have supposed that although the Union should be broken, particular States may retain their importance; but this cannot be. The strongest nerved State, even the right arm, if separated from the body, must wither. If the great Union be broken, our country, as a nation, perishes; and if our country so perishes, it will be as impossible to save a particular State, as to preserve one of the fingers of a mortified hand.

By one of the paragraphs of the system, it is declared that the ratification of the Conventions of nine States shall be sufficient for the establishment of the Constitution between the States so ratifying the same; but, Sir, how happy will it be, if not only nine, but even all the States should ratify it! It will be a happy circumstance, if only a small majority of this Convention should ratify the Federal system; but how much more happy if we could be unanimous! It will be a happy circumstance if a majority of the people of this Commonwealth should be in favor of the Federal system; but how much more so, if they should be unanimous! and if there are any means whereby they may be united, every exertion should be made to effect it. I presume, Sir, that there is not a single gentleman within these walls, who does not wish for a Federal government—for an efficient Federal government; and that this government should be possessed of every power necessary to enable it to shed on the people the benign influences of a good government. But I have observed from the first, that many gentlemen appear opposed to the system, and this I apprehend arises from their objections to some particular parts of it. Is there not a way in which their minds may be relieved from embarrassment? I

think there is; and if there is, no exertions should be spared in endeavoring to do it.

If we should ratify the Constitution, and instruct our first members to Congress to exert their utmost endeavors to have such checks and guards provided as appears to be necessary in some of the paragraphs of the Constitution, and communicate what we may judge proper to our sister States, and request their concurrence, is there not the highest probability that every thing which we wish may be effectually secured? I think there is; and I cannot but flatter myself that in this way, the gentlemen of the Convention will have the difficulties under which they now labor, removed from their minds; we shall be united. The people of this Commonwealth, and of our sister States, may be united. Permit me, therefore, most earnestly to recommend it to the serious consideration of every gentleman in the honorable Convention.

After Gen. Heath sat down, his Excellency the PRESIDENT rose and observed, that he was conscious of the impropriety, situated as he was, of his entering into the deliberations of the Convention; that, unfortunately, through painful indisposition of body, he had been prevented from giving his attendance in his place; but, from the information he had received, and from the papers, there appeared to him to be a great dissimilarity of sentiments in the Convention. To remove the objections of some gentlemen, he felt himself induced, he said, to hazard a proposition for their consideration; which, with the permission of the Convention, he would offer in the afternoon.

AFTERNOON.

When the Convention met in the afternoon,

His Excellency the PRESIDENT observed, that a motion had been made and seconded, that this Convention do assent to, and ratify, the Constitution which had been under consideration; and that he had in the former part of the day intimated his intention of submitting a proposition to the consideration of the Convention. My motive, says he, arises from my earnest desire to this Convention, my fellow-citizens, and the public at large, that this Convention may adopt such a form of govern-

ment as may extend its good influences to every part of the United States, and advance the prosperity of the whole world. His situation, his Excellency said, had not permitted him to enter into the debates of this Convention: it however appeared to him necessary, from what had been advanced in them, to adopt the form of government proposed; but, observing a diversity of sentiment in the gentlemen of the Convention, he had frequently had conversation with them on the subject; and from this conversation, he was induced to propose to them, whether the introduction of some general amendments would not be attended with the happiest consequences. For that purpose he should, with the leave of the honorable Convention, submit to their consideration a proposition, in order to remove the doubts, and quiet the apprehensions of gentlemen; and if in any degree the object should be acquired, he should feel himself perfectly satisfied. He should, therefore, submit them; for he was, he said, unable to go more largely into the subject, if his abilities would permit him; relying on the candor of the Convention to bear him witness that his wishes for a good Constitution were sincere. [His Excellency then read his proposition.[19]] This, gentlemen, concluded his Excellency, is the proposition which I had to make; and I submit it to your consideration, with the sincere wish that it may have a tendency to promote a spirit of union.

[The proposition submitted by his Excellency was committed to a large committee, who reported some amendments.]

Hon. Mr. ADAMS. Mr. President: I feel myself happy in contemplating the idea that many benefits will result from your Excellency's conciliatory proposition, to this Commonwealth and to the United States; and I think it ought to precede the motion made by the gentleman from Newburyport, and to be at this time considered by the Convention. I have said, that I have had my doubts of this Constitution. I could not digest every part of it, as readily as some gentlemen; but this, Sir, is my misfortune, not my fault. Other gentlemen have had their doubts, but in my opinion, the proposition submitted, will have a tendency to remove such doubts and to

[19] [See Journal, page 79.]

conciliate the minds of the Convention and the people without doors. This subject, Sir, is of the greatest magnitude, and has employed the attention of every rational man in the United States; but the minds of the people are not so well agreed on it as all of us could wish. A proposal of this sort, coming from Massachusetts, from her importance, will have its weight. Four or five States have considered and ratified the Constitution as it stands; but we know there is a diversity of opinion, even in these States, and one of them is greatly agitated. If this Convention should particularize the amendments necessary to be proposed, it appears to me it must have weight in other States where Conventions have not yet met. I have observed the sentiments of gentlemen on the subject as far as Virginia; and I have found that the objections were similar, in the newspapers, and in some of the Conventions. Considering these circumstances, it appears to me that such a measure will have the most salutary effect throughout the Union. It is of the greatest importance that America should still be united in sentiment. I think I have not been heretofore unmindful of the advantage of such an Union. It is essential that the people should be united in the Federal government, to withstand the common enemy, and to preserve their valuable rights and liberties. We find, in the great State of Pennsylvania, one-third of the Convention are opposed to it; should there then be large minorities in the several States, I should fear the consequences of such disunion.

Sir, there are many parts of it I esteem as highly valuable, particularly the article which empowers Congress to regulate commerce, to form treaties, &c. For want of this power in our national head, our friends are grieved and our enemies insult us. Our ambassador at the court of London is considered as a mere cipher, instead of the representative of the United States. Therefore it appears to me, that a power to remedy this evil should be given to Congress, and the remedy applied as soon as possible.

The only difficulty on gentlemen's minds is, whether it is best to accept this Constitution on conditional amendments, or to rely on amendments in future, as the Constitution provides. When I look over the article which provides for a

revision, I have my doubts. Suppose, Sir, nine States accept the Constitution without any conditions at all; and the four States should wish to have amendments, where will you find nine States to propose, and the legislatures of nine States to agree to the introduction of amendments? Therefore it seems to me that the expectation of amendments taking place at some future time will be frustrated. This method, if we take it, will be the most likely to bring about the amendments, as the Conventions of New Hampshire, Rhode Island, New York, Maryland, Virginia and South Carolina, have not yet met. I apprehend, Sir, that these States will be influenced by the proposition which your Excellency has submitted, as the resolutions of Massachusetts have ever had their influence. If this should be the case, the necessary amendments would be introduced more early, and more safely. From these considerations, as your Excellency did not think it proper to make a motion, with submission, I move that the paper read by your Excellency, be now taken under consideration by the Convention.

The motion being seconded, the proposition was read by the Secretary, at the table.

Dr. TAYLOR liked the idea of amendments; but, he said, he did not see any constitutional door open for the introduction of them by the Convention. He read the several authorities which provided for the meeting of Conventions; but did not see in any of them, any power given to propose amendments. We are, he said, therefore, treading on unsafe ground to propose them. We must take the whole or reject the whole. The honorable gentleman was in favor of the adjournment; and in a speech of some length, deprecated the consequences, which, he said, must arise if the Constitution was adopted or rejected by a small majority; and that the expenses which would accrue from the adjournment would not exceed 4d. per poll throughout the Commonwealth.

Hon. Mr. CABOT rose and observed on what fell from the honorable gentleman last speaking—that the reason why no provision for the introduction of amendments was made in the authorities quoted by the honorable gentleman, was, that they were provided for in the fifth article of the Constitution.

FRIDAY, February 1, 1788.

Mr. BOWDOIN (of Dorchester) observed that he could not but express his hearty approbation of the propositions made by his Excellency, as they would have a tendency to relieve the fears and quiet the apprehensions of some very respectable and worthy gentlemen, who had expressed their doubts whether some explanation of certain clauses in the Constitution, and some additional restrictions upon Congress, similar to those proposed by his Excellency, were not necessary. But, he said, as the propositions were incorporated with the great question, whether this Convention will adopt and ratify the Constitution; he conceived himself in order, and would, with the permission of the Convention, make a few general observations upon the subject, which were as follows:—

It was an answer of Solon's, when he was asked what kind of a Constitution he had constructed for the Athenians, that he had prepared as good a Constitution of government as the people would bear; clearly intimating that a Constitution of government should be relative to the habits, manners and genius of the people intended to be governed by it. As the particular State governments are relative to the manners and genius of the inhabitants of each State, so ought the general government to be an assemblage of the principles of all the governments; for without this assemblage of the principles, the general government will not sufficiently apply to the genius of the people confederated; and therefore by its meeting, in its operation, with a continual opposition, through this circumstance it must necessarily fail in its execution: because, agreeably to the idea of Solon, the people would not bear it.

It may not, therefore, be improper to examine whether the Federal Constitution proposed, has a likeness to the different State Constitutions, and such alone as to give the spirit and features of the particular governments. For Baron Montesquieu observes, that all governments ought to be relative to their particular principles; and that "a confederate government ought to be composed of States of the same nature, especially of the republican kind;" and instances, that as "the spirit of monarchy is war, enlargement of dominion; peace and mod-

eration, the spirit of a republic; these two kinds of governments cannot naturally subsist in a confederate republic."

From hence it follows, that all the governments of the States in the Union, ought to be of the same nature—of the republican kind; and that the general government ought to be an assemblage of the spirit and principles of them all. A short comparison, pointing out the likeness of the general, to the particular constitutions, may sufficiently elucidate the subject.

All the constitutions of the States consist of three branches, except as to the legislative powers, which are chiefly vested in two; the powers of government are separated in all, and mutually check each other. These are laid down, as fundamental principles, in the Federal Constitution. All power is derived, either mediately or immediately, from the people, in all the constitutions; this is the case with the Federal Constitution. The electors of representatives to the State governments are electors of representatives to the Federal government. The representatives are chosen for two years; so are the representatives to the assemblies of some of the States. The equality of representation is determined, in nearly all the States, by numbers; so it is in the Federal Constitution.

The second branch of the legislature, in some of the States, is similar to the Federal Senate, having not only legislative, but executive powers; being a legislating, and at the same time an advising body to the executive. Such are the assistants of Rhode Island and Connecticut, and the councils of New Jersey and Georgia. The senators of Virginia and New York are chosen for four years, and so elected that a continual rotation is established, by which one-quarter of their respective Senates is annually elected; and by which (as one of the Constitutions observes) there are more men trained to public business, and there will always be found a number of persons acquainted with the proceedings of the foregoing years, and thereby the public business be more consistently conducted. The Federal senators are to be chosen for six years; and there is a rotation so established, for the reasons above-mentioned, that one-third of the Senate is to be chosen every two years.

The president and vice-president answer to offices of the same name in some of the States, and to the office of governor and

lieutenant-governor in most of the States. As this office is of the utmost importance, the manner of choosing, for the better security of the interests of the Union, is to be by delegates, to be expressly chosen for the purpose, in such manner, as the different legislatures may direct. This method of choosing was probably taken from the manner of choosing senators, under the Constitution of Maryland.

The legislative powers of the president are precisely those of the governors of this State and of New York; rather negative than positive powers; given with a view to secure the independence of the executive, and to preserve a uniformity in the laws, which are committed to them to execute.

The executive powers of the president are very similar to those of the several States, except in those points which relate more particularly to the Union; and respect ambassadors, public ministers and consuls.

If the genius of the people of the States, as expressed by their different constitutions of government; if the similarity of each, and the general spirit of all the governments, concur to point out the policy of a confederate government, by comparing the Federal Constitution with those of the several States, can we expect one more applicable to the people, to the different States, and to the purposes of the Union, than the one proposed, unless it should be contended that a Union was unnecessary?

"If a republic is small," says Baron Montesquieu, "it is destroyed by a foreign force; if it is large, it is ruined by an internal imperfection." "*Fato potentiæ sua vi nixæ.*" And if mankind had not contrived a confederate republic, says the same author, "a Constitution, that has all the internal advantages of a republican, and the external force of a monarchical government," they would probably have always lived under the tyranny of a single person. Admitting this principle of Baron Montesquieu's, the several States are either too small to be defended against a foreign enemy, or too large for republican constitutions of government. If we apply the first position to the different States, which reason, and the experience of the late war, point out to be true, a confederate government is necessary. But if we admit the latter position, then the several governments, being in their own nature imperfect, will be neces-

sarily destroyed, from their being too extensive for republican governments.

From whence it follows, if the foregoing principles are true, that we ought to adopt a Confederation, presuming the different States well calculated for republican governments; for if they are not, their corruption will work their destruction separately; and if they are destined for destruction, from their natural imperfection, it will certainly be more advantageous to have them destroyed collectively than separately, as in that case we should fall under one great national government.

But if the advantages of a confederacy, admitting the principles of it to be good, are duly considered; that it will give security and permanency to the several States, not only against foreign invasion, but against internal disputes, and wars with one another; if the wars in Europe, arising from jarring and opposing interests, are a public calamity; if it is for the benefit of ourselves, and future generations, to prevent its horrid devastations on this continent, to secure the States against such calamities, it will be necessary to establish a general government, to adjust the disputes, and to settle the differences, between State and State. For, without a confederacy, the several States, being distinct sovereignties, would be in a state of nature, with respect to each other, and the law of nature, which is the right of the strongest, would determine the disputes that might arise. To prevent the operation of so unjust a title; to afford protection to the weakest State against the strongest; to secure the rights of all against the encroachments of any of the States; to balance the power of all the States, by each giving up a portion of its sovereignty, thereby better to secure the remainder of it, are amongst the main objects of a confederacy.

But the advantages of a union of the States are not confined to mere safety from within or from without. They extend not only to the welfare of each State, but even to the interest of each individual of the States.

The manner in which the States have suffered for the want of a general regulation of trade, is so notorious, that little need be said upon the subject, to prove that the continent has been exhausted of its wealth, for the want of it; and if the evil from the not regulating it is not speedily remedied, by placing the

necessary powers in the hands of Congress, the liberties of the people, or the independence of the States, will be irretrievably lost. The people, feeling the inconvenience of systems of government that instead of relieving, increase their perplexities; instead of regulating trade upon proper principles, instead of improving the natural advantages of our own country, and opening new sources of wealth, our lands have sunk in their value, our trade has languished, our credit has been daily reducing, and our resources are almost annihilated—can we expect, in such a state, that the people will long continue their allegiance to systems of government, whether arising from the weakness of their administration, or the insufficiency of their principles, which entail on them so many calamities? I presume not. The well-being of trade depends on a proper regulation of it; on the success of trade, depends wealth; on wealth, the value of lands; the strength, the welfare and happiness of a country, upon the numbers, the ease and independence of its yeomanry. For the want of this have our taxes most oppressively fallen upon the most useful of all our citizens, our husbandmen; while trade, for the want of its being confined to proper objects, has served rather to ruin than to enrich those that have carried it on.

Shall we, then, let causeless jealousies arise, and distract our councils? Shall we let partial views and local prejudices influence our decisions? Or shall we, with a becoming wisdom, determine to adopt the Federal Constitution proposed, and thereby confirm the liberty, the safety and the welfare of our country?

I might go on, Sir, and point out the fatal consequences of rejecting the Constitution; but, as I have already intruded too much upon the time and patience of the Convention, I shall, for the present, forbear any further observations, requesting the candor of the Convention for those I have already made.

Hon. Mr. ADAMS. As your Excellency was pleased yesterday to offer, for the consideration of this Convention, certain propositions intended to accompany the ratification of the Constitution before us, I did myself the honor to bring them forward by a regular motion, not only from the respect due to your Excellency, but from a clear conviction in my own mind that

they would tend to effect the salutary and important purposes which you had in view, "the removing the fears and quieting the apprehensions of many of the good people of this Commonwealth, and the more effectually guarding against an undue administration of the Federal government."

I beg leave, Sir, more particularly to consider those propositions, and in a very few words to express my own opinion that they must have a strong tendency to ease the minds of gentlemen who wish for the immediate operation of some essential parts of the proposed Constitution, as well as the most speedy and effectual means of obtaining alterations in some other parts of it, which they are solicitous should be made. I will not repeat the reasons I offered when the motion was made, which convinced me that the measure now under consideration will have a more speedy, as well as a more certain influence in effecting the purpose last mentioned, than the measure proposed in the Constitution before us.

Your Excellency's first proposition is, "that it be explicitly declared, that all powers not expressly delegated to Congress, are reserved to the several States, to be by them exercised." This appears to my mind to be a summary of a bill of rights, which gentlemen are anxious to obtain; it removes a doubt which many have entertained respecting this matter, and gives assurance that if any law made by the Federal government shall be extended beyond the power granted by the proposed Constitution, and inconsistent with the Constitution of this State, it will be an error, and adjudged by the courts of law to be void. It is consonant with the second article in the present Confederation, that each State retains its sovereignty, freedom and independence, and every power, jurisdiction and right, which is not by this Confederation expressly delegated to the United States in Congress assembled. I have long considered the watchfulness of the people over the conduct of their rulers, the strongest guard against the encroachments of power; and I hope the people of this country will always be thus watchful.

Another of your Excellency's propositions is calculated to quiet the apprehensions of gentlemen, lest Congress should exercise an unreasonable control over the State legislatures, with regard to the times, places and manner of holding elec-

tions, which by the fourth section of the first article, are to be prescribed in each State by the legislature thereof, subject to the control of Congress. I have had my fears lest this control should infringe the freedom of elections, which ought ever to be held sacred. Gentlemen who have objected to this controlling power in Congress, have expressed their wishes that it had been restricted to such States as may neglect or refuse that power vested in them, and to be exercised by them if they please. Your Excellency proposes, in substance, the same restriction, which, I should think, cannot but meet with their full approbation.

The power to be given to Congress, to lay and collect taxes, duties, imposts and excises, has alarmed the minds of some gentlemen. They tell you, Sir, that the exercise of the power of laying and collecting direct taxes might greatly distress the several States, and render them incapable of raising moneys for the payment of their respective State debts, or for any purpose. They say the impost and excise may be made adequate to the public emergencies in the time of peace, and ask why the laying direct taxes may not be confined to a time of war. You are pleased to propose to us, that it be a recommendation, that "Congress do not lay direct taxes but when the moneys arising from the impost and excise shall be insufficient for the public exigencies." The prospect of approaching war might necessarily create an expense beyond the productions of impost and excise. How, then, would the government have the necessary means of providing for the public defence? Must they not have recourse to other resources besides impost and excise? The people, while they watch for their own safety, must and will have a just confidence in a legislature of their own election. The approach of war is seldom, if ever, without observation; it is generally observed by the people at large, and I believe no legislature of a free country would venture a measure which should directly touch the purses of the people, under a mere pretence, or unless they could show, to the people's satisfaction, that there had, in fact, been a real public exigency to justify it.

Your Excellency's next proposition is, to introduce the indictment of a grand jury before any person shall be tried for any crime, by which he may incur infamous punishment, or loss of

life; and it is followed by another, which recommends a trial by jury, in civil actions between citizens of different States, if either of the parties shall request it. These, and several others which I have not mentioned, are so evidently beneficial, as to need no comment of mine. And they are all, in every particular, of so general a nature, and so equally interesting to every State, that I cannot but persuade myself to think, they would all readily join with us in the measure proposed by your Excellency, if we should now adopt it. Gentlemen may make additional propositions, if they think fit; it is presumed that we shall exercise candor towards each other; and that, whilst on the one hand gentlemen will cheerfully agree to any proposition intended to promote a general union, which may not be inconsistent with their own mature judgment, others will avoid the making such as may be needless, or tend to embarrass the minds of the people of this Commonwealth and our sister States, and thereby not only frustrate your Excellency's wise intention, but endanger the loss of that degree of reputation, which, I flatter myself, this Commonwealth has justly sustained.

Mr. NASSON. Mr. President: I feel myself happy, that your Excellency has been placed, by the free suffrages of your fellow-citizens, at the head of this government. I also feel myself happy, that your Excellency has been placed in the chair of this honorable Convention; and I feel a confidence that the proposition submitted to our consideration yesterday, by your Excellency, has for its object the good of your country. But, Sir, as I have not had an opportunity leisurely to consider it, I shall pass it over, and take a short view of the Constitution at large, which is under consideration, though my abilities, Sir, will not permit me to do justice to my feelings, or to my constituents. Great Britain, Sir, first attempted to enslave us, by declaring her laws supreme, and that she had a right to bind us in all cases whatever. What, Sir, roused the Americans to shake off the yoke preparing for them? It was this measure, the power to do which we are now about giving to Congress. And here, Sir, I beg the indulgence of this honorable body, to permit me to make a short apostrophe to liberty. O, liberty! thou greatest good! thou fairest property! With thee I wish to live, with thee I wish to die! Pardon me if I drop a tear on

the peril to which she is exposed. I cannot, Sir, see this brightest of jewels tarnished! a jewel worth ten thousand worlds! And shall we part with it so soon! O, no. Gentlemen ask, can it be supposed that a Constitution, so pregnant with danger, could come from the hands of those who framed it! Indeed, Sir, I am suspicious of my own judgment, when I contemplate this idea; when I see the list of illustrious names annexed to it; but, Sir, my duty to my constituents obliges me to oppose the measure they recommend, as obnoxious to their liberty and safety.

When, Sir, we dissolved the political bands which connected us with Great Britain, we were in a state of nature. We then formed and adopted the Confederation, which must be considered as a sacred instrument; this confederates us under one head, as sovereign and independent States. Now, Sir, if we give Congress power to dissolve that Confederation, to what can we trust? If a nation consent thus to treat their most solemn compacts, who will ever trust them? Let us, Sir, begin with this Constitution, and see what it is. And first, "We, the people of the United States, do," &c. If this, Sir, does not go to an annihilation of the State governments, and to a perfect consolidation of the whole Union, I do not know what does. What! shall we consent to this? Can ten, twenty or an hundred persons in this State, who have taken the oath of allegiance to it, dispense with this oath? Gentlemen may talk as they please of dispensing in certain cases with oaths; but, Sir, with me they are sacred things. We are under oath; we have sworn that Massachusetts is a sovereign and independent State. How, then, can we vote for this Constitution, that destroys that sovereignty?

The Hon. Col. VARNUM begged leave to set the worthy gentleman right. The very oath, he said, which the gentleman has mentioned, provides an exception for the power to be granted to Congress.

Well, continued Mr. Nasson, to go on. Mr. President: Let us consider the Constitution without a bill of rights. When I give up any of my natural rights, it is for the security of the rest; but here is not one right secured, although many are neglected.

With respect to biennial elections, the paragraph is rather loosely expressed. I am a little in favor of our ancient custom. Gentlemen say they are convinced that the alteration is necessary. It may be so; when I see better, I will join with them.

To go on. Representation and taxation to be apportioned according to numbers. This, Sir, I am opposed to; it is unequal. I will show an instance in point. We know for certainty, that in the town of Brooklyn, persons are better able to pay their taxes, than in the parts I represent. Suppose the tax is laid on polls. Why, the people of the former place will pay their tax ten times as easy as the latter, thus helping that part of the community which stands in the least need of help. On this footing, the poor pay as much as the rich; and in this a way is laid, that five slaves shall be rated no more than three children. Let gentlemen consider this. A farmer takes three small orphans, on charity, to bring up; they are bound to him; when they arrive at twenty-one years of age, he gives each of them a couple of suits of clothes, a cow, and two or three young cattle; we are rated as much for these, as a farmer in Virginia is for five slaves, whom he holds for life, they and their posterity, the male, and the she ones, too. The Senate, Mr. President, are to be chosen two from each State. This, Sir, puts the smaller States on a footing with the larger, when the States have to pay according to their numbers. New Hampshire does not pay a fourth part as much as Massachusetts. We must, therefore, to support the *dignity* of the Union, pay four times as much as New Hampshire, and almost fourteen times as much as Georgia, who, we see, are equally represented with us.

The term, Sir, for which the Senate is chosen, is a grievance. It is too long to trust any body of men with power. It is impossible but that such men will be tenacious of their places; they are to be raised to a lofty eminence, and they will be loth to come down; and in the course of six years, may, by management, have it in their power to create officers, and obtain influence enough to get in again, and so for life. When we felt the hand of British oppression upon us, we were so jealous of rulers as to declare them eligible but for three years in six. In this Constitution we forget this principle. I, Sir, think that rulers ought, at short periods, to return to private life, that

they may know how to feel for and regard their fellow-creatures. In six years, Sir, and at a great distance, they will quite forget them; for

"Time and absence cure the purest love."

We are apt to forget our friends, except when we are conversing with them.

We now come, Sir, to the fourth section. Let us see—the times, places and manner of holding elections shall be prescribed in each State by the legislature thereof. No objections to this; but, Sir, after the flash of lightning comes the peal of thunder. "But Congress may at any time alter them," &c. Here it is, Mr. President; this is the article which is to make Congress omnipotent. Gentlemen say this is the greatest beauty of the Constitution; this is the great security for the people; this is the all in all. Such language have I heard in this house; but, Sir, I say, by this power Congress may, if they please, order the election of Federal representatives for Massachusetts, to be at Great Barrington, or Machias; and at such a time, too, as shall put it in the power of a few artful and designing men to get themselves elected at their pleasure.

The eighth section, Mr. President, provides that Congress shall have power to lay and collect taxes, duties, imposts, excises, &c. We may, Sir, be poor; we may not be able to pay these taxes, &c. We must have a little meal, and a little meat, whereon to live; and save a little for a rainy day. But what follows? Let us see. To raise and support armies. Here, Sir, comes the key to unlock this cabinet; here are the means by which you will be made to pay your taxes! But will ye, my countrymen, submit to this? Suffer me, Sir, to say a few words on the fatal effects of standing armies, that bane of republican governments! A standing army! Was it not with this that Cæsar passed the Rubicon, and laid prostrate the liberties of his country? By this have seven-eighths of the once free nations of the globe been brought into bondage! Time would fail me, were I to attempt to recapitulate the havoc made in the world by standing armies. Britain attempted to enforce her arbitrary measures by a standing army. But, Sir, we had patriots then who alarmed us of our danger; who showed us

the serpent, and bid us beware of it. Shall I name them? I fear I shall offend your Excellency; but I cannot avoid it. I must. We had an Hancock, an Adams, and a Warren. Our sister States, too, produced a Randolph, a Washington, a Greene, and a Montgomery, who led us in our way. Some of these have given up their lives in defence of the liberties of their country; and my prayer to God is, that when this race of illustrious patriots shall have bid adieu to the world, that from their dust, as from the sacred ashes of the phœnix, another race may arise, who shall take our posterity by the hand, and lead them to trample on the necks of those who shall dare to infringe on their liberties. Sir, had I a voice like Jove, I would proclaim it throughout the world, and had I an arm like Jove, I would hurl from the globe those villains who would dare attempt to establish in our country a standing army. I wish, Sir, that the gentlemen of Boston would bring to their minds the fatal evening of the 5th of March, 1770, when by standing troops they lost five of their fellow-townsmen. I will ask them, what price can atone for their lives? What money can make satisfaction for the loss? The same causes produce the same effects. An army may be raised on pretence of helping a friend, or many pretences might be used. That night, Sir, ought to be a sufficient warning against standing armies, except in cases of great emergency. They are too frequently used for no other purpose than dragooning the people into slavery; but I beseech you, my countrymen, for the sake of your posterity, to act like those worthy men who have stood forth in defence of the rights of mankind, and show to the world that you will not submit to tyranny. What occasion have we for standing armies? We fear no foe. If one should come upon us, we have a militia, which is our bulwark. Let Lexington witness that we have the means of defence among ourselves. If, during the last winter, there was not much alacrity shown by the militia in turning out, we must consider that they were going to fight their countrymen. Do you, Sir, suppose, that had a British army invaded us at that time, such supineness would have been discovered? No, Sir! To our enemies' dismay and discomfort, they would have felt the contrary; but against deluded, infatuated men, they did not wish to exert their valor or their strength. There-

fore, Sir, I am utterly opposed to a standing army in time of peace.

The paragraph that gives Congress power to suspend the writ of *habeas corpus*, claims a little attention. This is a great bulwark; a great privilege indeed, We ought not, therefore, to give it up on any slight pretence. Let us see: How long is it to be suspended? As long as rebellion or invasion shall continue. This is exceeding loose. Why is not the time limited, as in our Constitution? But, Sir, its design would then be defeated. It was the intent, and by it we shall give up one of our greatest privileges. Mr. Nasson concluded by saying, he had much more to say, but as the house were impatient, he should sit down for the present, to give other gentlemen an opportunity to speak.

Judge SUMNER, adverting to the pathetic apostrophe of the gentleman last speaking, said, he could, with as much sincerity, apostrophize: O, government! thou greatest good! thou best of blessings! With thee I wish to live; with thee I wish to die. Thou art as necessary to the support of the political body, as meat and bread are to the natural body. The learned judge then turned his attention to the proposition submitted by the President, and said, he sincerely hoped that it would meet the approbation of the Convention, as it appeared to him a remedy for all the difficulties which gentlemen in the course of the debates had mentioned. He particularized the objections that had been started, and showed that their removal was provided for in the proposition; and concluded by observing, that the probability was very great, that if the amendments proposed were recommended by this Convention, they would, on the meeting of the first Congress, be adopted by the general government.

Mr. WEDGERY said, he did not see the probability that these amendments would be made, if we had authority to propose them. He considered, he said, that the Convention did not meet for the purpose of recommending amendments, but to adopt or reject the Constitution. He concluded by asking, whether it was probable that those States who had already adopted the Constitution, would be likely to submit to amendments?

AFTERNOON.

[When the Convention met, a short conversation ensued on the time when the grand question should be taken. It was agreed that it should not be until Tuesday. After this conversation subsided, another took place on the division of the motion, in order that the question of ratifying might be considered separately from the amendments, but nothing final was determined upon.]

Judge DANA advocated the proposition submitted by his Excellency the President. It contained, he said, the amendments generally wished for; as they were not of a local nature, but extended to every part of the union, if they were recommended to be adopted by this Convention, it was very probable that two-thirds of the Congress would concur in proposing them; or that two-thirds of the legislatures of the several States would apply for the call of a Convention to consider them, agreeably to the mode pointed out in the Constitution; and that he did not think that gentlemen would wish to reject the whole of the system, because some part of it did not please them. He then went into a consideration of the advantages which would ensue from its adoption, to the United States, to the individual States, and to the several classes of citizens, and concluded by representing, in a lively manner, the evils to the whole continent, and to the northern States in particular, which must be the unavoidable attendants on the present system of general government.

Mr. RUSSELL rose, he said, with diffidence, to offer his sentiments on the subject in debate; but he could not, he said, forbear to give his sentiments on the advantage which he apprehended must result from the adoption of the proposed Constitution, to this State, and to the United States, in the advancement of their commerce. Mr. Russell said, he believed, it had always been the policy of trading nations, to secure to themselves the advantages of their carrying trade; he observed, how tenacious France, Holland and England were in this particular, and how beneficial it had proved to them. He then went into an accurate and interesting statement of the quantities of produce which were exported from the several States; and

showed the ability of the States to furnish from among themselves shipping fully sufficient for the transportation of this produce; which, he observed, if confined by the general government to American vessels, while the restriction would not increase the rates of freightage to the southern States, as the northern and middle States *could* produce a surplusage of shipping, and a spirit of competition would call forth the resources, would greatly increase our navigation, furnish us with a great nursery of seamen, give employment not only to the mechanics in constructing the vessels, and the trades dependant thereon, but to the husbandman, in cutting down trees for timber and transporting them to the places of building, increase the demand for the products of the land, and for our pork, butter, &c.; and give such life and spirit to commerce as would extend it to all the nations of the world. These, he said, were some of the blessings he anticipated from the adoption of the Federal Constitution; and so convinced was he of its utility and necessity, that, while he wished, that on the grand question being put, there might not be one dissenting voice, if he was allowed, he would hold up both his hands in favor of it; and he concluded, if his left hand was unwilling to be extended with his right, in this all important decision, he would cut it off, as unworthy of him, and lest it should infect his whole body.

Mr. PIERCE. Mr. President: The amendments proposed by your Excellency are very agreeable to my opinion, and I should wish to add several more, but will mention but one, and that is, that the Senate should not continue in office more than two years; but, Sir, I think that if the want of these amendments were sufficient for me to vote against the Constitution, the addition, in the manner proposed by your Excellency, will not be sufficient for me to vote for it, as it appears to me very uncertain whether they ever are a part of the Constitution.

Several gentlemen said a few words each on the proposition of amendments—which it was acceded to by gentlemen opposed to the Constitution, was good—but that it was not probable it would be interwoven in the Constitution. Gentlemen, on the other side, said there was a great probability that it would, from its nature, be also recommended by the several Conventions which have not yet convened.

SATURDAY, February 2, 1788.

The Hon. Mr. STRONG went into a particular discussion of the several amendments recommended in the proposition submitted by his Excellency; each of which he considered with much attention. He anticipated the good effect it must have in conciliating the various sentiments of gentlemen on the subject; and expressed his firm belief, that if it was recommended by the Convention, it would be inserted in the Constitution.

Gen. THOMPSON said, we have no right to make amendments; it was not, he said, the business we were sent for. He was glad, he said, that gentlemen were convinced it was not a perfect system, and that it wanted amendments. This, he said, was different from the language they had formerly held. However, as to the amendments, he could not say amen to them, but they might be voted for by some men—he did not say Judases.

Mr. PARSONS, Col. ORNE, Hon. Mr. PHILLIPS, and the Rev. Mr. NILES, and several other gentlemen, spoke in favor of the proposition, as a conciliatory measure, and the probability of the amendments being adopted. Mr. NASSON, Dr. TAYLOR, Mr. THOMAS, of Middleborough, and others, though in sentiment with gentlemen on the propriety of their being admitted into the Constitution, did not think it was probable they would be inserted.

Before the Convention adjourned, Gen. WHITNEY moved, that a committee, consisting of two from each county, should be raised to consider the amendments, or any other that might be proposed, and report thereon.

Hon. Mr. SEDGWICK seconded the motion.

Hon. Mr. DALTON. Mr. President: I am not opposed to the motion; but, Sir, that gentlemen may not again say, as has been the case several times this day, that the gentlemen who advocate the measure of the proposition were now convinced that amendments to the Constitution are indispensable, I, Sir, in my place, say, that I am willing to accept the Constitution as it is: and I am in favor of the motion of proposing amendments, only as it is of a conciliating nature, and not as a concession that amendments are necessary.

The motion was put and carried unanimously.

The following gentlemen were then appointed on the said committee, viz.:—

Hon. Mr. Bowdoin, Mr. Southworth, Mr. Parsons, Hon. Mr. Hutchinson, Hon. Mr. Dana, Mr. Winn, Hon. Mr. Strong, Mr. Bodman, Hon. Mr. Turner, Mr. Thomas, of Plymouth, Dr. Smith, Mr. Bourn, Hon. Mr. Spooner, Mr. Bishop, Rev. Dr. Hemmenway, Mr. Barrell, Mr. Mayhew, Hon. Mr. Taylor, Hon. Mr. Sprague, Mr. Fox, Mr. Longfellow, Mr. Sewall, Mr. Sylvester, Mr. Lusk, Hon. Mr. Sedgwick.

MONDAY, February 4, 1788.

Rev. Mr. THATCHER. Mr. President: While the different paragraphs of the proposed Constitution have been debated, I have not troubled this honorable Convention with any observations of my own upon the subject. Conscious that there were men of deeper political knowledge, and of better abilities, than myself, I conceived it my duty to attend to their instruction, that, having heard with attention, I might decide with integrity. I view the object before us as of greater moment than ever was known within the memory of man, or than hath been recorded by the historic page. Were we, Mr. President, this day to decide on the lives and fortunes of an hundred of the best citizens of this Commonwealth, solemn would that province be; but much more interesting is the result of the present question; for in this case not a single City, not a single State, but a Continent, wide and extended, may be happy or wretched according to our judgment, and posterity will either bless us for laying the foundation of a wise and equal government, or curse us for neglecting their important interests, and for forging chains for them, when we disdained to wear them ourselves. Having, therefore, as I trust, a full view of the magnitude of the object, I hope I shall be pardoned if I offer my sentiments with freedom. I am sensible of the prejudices that subsist against the profession to which I belong; but yet, intrusted by my constituents with so solemn a charge, I think they have a right to expect from me the reasons why I

shall finally consent to ratify the proposed form of government.

There are three circumstances which deserve notice in considering the subject: these are, the necessity that all the States have of some general band of union; the checks upon the government in the form offered for our adoption; and, lastly, the particular disadvantages to which we shall be exposed if we reject it.

With respect to the first of these considerations, I trust there is no man in his senses but what will own, that the whole country hath largely felt the want of energy in the general government. While we were at war with Britain, common danger produced a common union; but, the cause being removed, the effect ceased also. Nay, I do not know but we may safely add, that that union, produced by uniform danger, was still inadequate to general and national purposes. This Commonwealth, with a generous, disinterested regard to the good of the whole, appeared foremost in the day of danger. At the conclusion of the late war, two-thirds of the continental army were from Massachusetts; their provision and their clothing proceeded also in a great measure from our extraordinary exertions. The people did this in the fullest confidence that when peace and tranquillity was restored, from the honor and justice of our sister States, our supernumerary expenses would be abundantly repaid. But, alas! how much have our expectations been blasted! The Congress, though willing, yet had no power to do us justice. The small district of Rhode Island put a negative upon the collected wisdom of the continent. This was done, not by those who are the patrons of their present infamous system of paper currency; but by that part of them who now call themselves honest men. We have made exertions to stop the importation of foreign luxuries. Our brethren in the neighboring States, from the view of local advantages, have taken occasion to distress us upon the same account. They have encouraged, where we have prohibited; and by those iniquitous measures have made our virtue and public spirit an additional cause of our calamity. Nor have our calamities been local; they have reached to all parts of the United States, and have produced dissipation and indigence at home, and con-

tempt in foreign countries. On the one hand, the haughty Spaniard has deprived us of the navigation of the river Mississippi; on the other, the British nation are by extravagant duties ruining our fisheries. Our sailors are enslaved by the pirates of Algiers; our credit is reduced to so low an ebb that American faith is a proverbial expression for perfidy, as punic faith was among the Romans. Thus have we suffered every species of infamy abroad, and poverty at home. Such, in fact, have been our calamities, as are enough to convince the most sceptical among us, of the want of a general government, in which energy and vigor should be established, and at the same time the rights and liberties of the people preserved.

A constitution hath been presented to us which was composed and planned by men who, in the council and field, have, in the most conspicuous offices, served their country in the late war. It comes authenticated by a man who, without any pecuniary reward, commanded our army, and who retired to a private station with more pleasure than he left it. I do not say, Mr. President, that this proves the form of government to be perfect, or that it is an unanswerable argument that we should adopt it. But it is a reason why we should examine it with care and caution, and that we ought not rashly and precipitately to reject it.

It will be objected: "There are more powers granted than are necessary, and that it tends to destroy the local governments of the particular States, and that it will eventually end either in aristocracy or despotism." To answer the objection two considerations should be taken into view: the situation of the continent when a constitution was formed, and the impossibility of preserving a perfect sovereignty in the States, after necessary powers were ceded to a supreme council of the whole. As to the first, let us candidly examine the state of these republics, from New Hampshire to Georgia, and see how far vigor and energy were required. During the session of the late Convention, Massachusetts was on the point of civil war. In Vermont and New Hampshire, a great disaffection to their several governments prevailed among the people. New York absolutely refused complying with the requisitions of Congress. In Virginia, armed men endeavored to stop the courts of justice. In

South Carolina, creditors by law were obliged to receive barren and useless land, for contracts made in silver and gold. I pass over the instance of Rhode Island; their conduct was notorious. In some States, laws were made directly against the treaty of peace; in others, statutes were enacted which clashed directly against any Federal union; new lands, sufficient to discharge a great part of the continental debt, intruded upon by needy adventurers; our frontier settlements exposed to the ravages of the Indians, while the several States were unable or unwilling to relieve their distress. Lay all these circumstances together, and you will find some apology for those gentlemen who framed this Constitution. I trust you may charitably assign other motives for their conduct than a design to enslave their country and to parcel out to themselves its honors and emoluments.

The second consideration deserves its weight. Can these local governments be sufficient to protect us from foreign enemies, or from disaffection at home? Thirteen States are formed already. The same number are probably to be formed from the lands not yet cultivated. Of the former, yet smaller divisions may be made. The province of Maine hath desired a separation; in time a separation may take place. Who knows but what the same may happen with respect to the old colony of Plymouth? Now conceive the number of States increased; their boundaries lessened; their interests clashing; how easy a prey to a foreign power! how liable to war among themselves! Let these arguments be weighed; and I dare say, Sir, there is no man but what would conceive, that a coercive power over the whole, searching through all parts of the system, is necessary to the preservation and happiness of the whole people.

But I readily grant all these reasons are not sufficient to surrender up the essential liberties of the people. But do we surrender them? This Constitution hath been compared, both by its defenders and opponents, to the British government. In my view of it, there is a great difference. In Britain, the government is said to consist of the three forms, monarchy, aristocracy and democracy; but in fact is but a few removes from absolute despotism. In the crown is vested the power of adding, at pleasure, to the second branch; of nominating all the places of honor and emolument; of purchasing, by its immense revenues,

the suffrages of the House of Commons. The voice of the people is but the echo of the king; and their boasted privileges lie entirely at his mercy. In this proposed form, each branch of power is derived either mediately or directly from the people. The lower house are elected directly by those persons who are qualified to vote for the representatives of the State; and at the expiration of two years become private men, unless their past conduct entitles them a future election. The Senate are elected by the legislatures of the different States, and represent their sovereignty. These powers are a check on each other, and can never be made either dependant on one another, or independent of the people. The President is chosen by the electors, who are appointed by the people. The high courts of justice arise from the President and Senate; but yet the ministers of them can be removed only upon bad behavior. The independence of judges is one of the most favorable circumstances to the public liberty; for when they become the slaves of a venal, corrupt court, and the hirelings of tyranny, all property is precarious, and personal security at an end. A man may be stripped of all his possessions and murdered, with the forms of law. Thus it appears that all parts of this system arise ultimately from the people, and are still independent of each other. There are other restraints, which, though not directly named in this Constitution, yet are evidently discerned by every man of common observation. These are, the governments of the several States, and the spirit of liberty in the people. Are we wronged or injured? Our immediate representatives are those to whom we ought to apply. Their power and influence will still be great. But should any servants of the people, however eminent their stations, attempt to enslave them, from this spirit of liberty such opposition would arise as would bring them to the scaffold. But, admitting that there are dangers in accepting this general government, yet are there not greater hazards in rejecting it? Such is, Mr. President, the state of our affairs, that it is not in our power to carve for ourselves. To avoid the greatest, and to choose the least of two evils, is all that we can do. What then will be the probable effects if this Constitution be rejected? Have we not reason to fear new commotions in this Commonwealth? If they arise, can we be always certain that

we shall be furnished with a citizen, who, though possessed of extensive influence and the greatest abilities, will make no other use of them than to quiet the tumult of the people, to prevent civil war, and to restore the usual course of law and justice? Are we not in danger from other States, when their interests or prejudices are opposite to ours? And in some such scenes of hostile contention, will not some Sylla drench the land in blood, or some Cromwell or Cæsar lay our liberties prostrate at his feet? Will not foreign nations attack us in our weak, divided condition, and once more render us provinces to some potentate of Europe? Or will those powers to whom we are indebted lie quiet? They certainly will not. They are now waiting for our decision; but when they once see that our union is broken, and that we are determined to neglect them, they will issue out letters of marque and reprisal, and entirely destroy our commerce.

If this system is broken up, will thirteen, or even nine, States ever agree to another? And will Providence smile on a people who despise the privileges put into their hands, and who neglect the plainest principles of justice and honesty? After all, I by no means pretend that there is complete perfection in this proposed Constitution. Like all other human productions, it hath its faults. Provision is made for an amendment, whenever from practice it is found oppressive. I would add, the proposals which his Excellency hath condescended to lay before this honorable Convention, respecting future alterations, are real improvements for the better, and we have no reason to doubt but they will be equally attended to by other States, as they lead to common security and preservation.

Some of the gentlemen in the opposition have quoted ancient history, and applied it to the question now under debate. They have shown us the danger which arises from vesting magistrates with too much power. I wish they had gone on to tell the whole truth. They might have shown how nearly licentiousness and tyranny are allied; that they who will not be governed by reason, must submit to force; that demagogues, in all free governments, have at first held out an idea of extreme liberty and have seized on the rights of the people under the mask of patriotism. They might have shown us a republic

in which wisdom, virtue and order, were qualities for which a man was liable to banishment; and, on the other hand, boasting, sedition and falsehood, the sure road to honor and promotion.

I am sorry that it hath been hinted by some gentlemen in this house, as if there were a combination of the rich, the learned, and those of liberal professions, to establish and support an arbitrary form of government. Far be it from me to retort so uncharitable and unchristian a suggestion. I doubt not but the gentlemen who are of different sentiments from myself are actuated by the purest motives. Some of them I have the pleasure to be particularly acquainted with, and can safely pronounce them to be men of virtue and honor. They have, no doubt, a laudable concern for the liberties of their country; but I would beg them to remember, that extreme jealousy and suspicion may be as fatal to freedom as security and negligence.

With respect to myself, I am conscious of no motive which guides me in this great and solemn question, but what I could justify to my own heart, both on the bed of death, and before the tribunal of Omnipotence. I am a poor man: I have the feelings of a poor man. If there are honors and emoluments in this proposed Constitution, I shall, by my profession and circumstances in life, be forever excluded from them. It is my wish and prayer, that in the solemn verdict we are very soon to pronounce, we may be directed to that measure which will be for the glory, freedom and felicity of my country.

I shall trouble this House no further, than by joining sincerely in the wish of the honorable gentleman from Topsham, that the people, in this their day, may know the things which belong to their peace.

[The committee appointed on Saturday to consider his Excellency's propositions, by their chairman, Hon. Mr. Bowdoin, reported a few alterations to the amendments submitted to them; and that at the decision, the committee consisted of twenty-four; fifteen of whom agreed in the report; seven were against it; one was absent, and one declined giving his opinion.]

Major Lusk concurred in the idea already thrown out in the debate, that although the insertion of the amendments in the Constitution was devoutly wished, yet he did not see any reason

to suppose they ever would be adopted. Turning from the subject of amendments, the Major entered largely into the consideration of the ninth section, and in the most pathetic and feeling manner described the miseries of the poor natives of Africa, who are kidnapped and sold for slaves. With the brightest colors, he painted their happiness and ease on their native shores, and contrasted them with their wretched, miserable and unhappy condition in a state of slavery. From this subject, he passed to the article dispensing with the qualification of a religious test, and concluded by saying, that he shuddered at the idea, that Roman Catholics, Papists and Pagans might be introduced into office; and that Popery and the Inquisition may be established in America.

Rev. Mr. BACKUS. Mr. President: I have said very little in this honorable Convention; but I now beg leave to offer a few thoughts upon some points in the Constitution proposed to us. And I shall begin with the exclusion of any religious test. Many appear to be much concerned about it; but nothing is more evident, both in reason and in the holy Scriptures, than that religion is ever a matter between God and individuals; and therefore no man or men can impose any religious test without invading the essential prerogatives of our Lord Jesus Christ. Ministers first assumed this power under the Christian name; and then Constantine approved of the practice, when he adopted the profession of Christianity, as an engine of state policy. And let the history of all nations be searched, from that day to this, and it will appear that the imposing of religious tests hath been the greatest engine of tyranny in the world. And I rejoice to see so many gentlemen who are now giving in the rights of conscience, in this great and important matter. Some serious minds discover a concern lest, if all religious tests should be excluded, the Congress would hereafter establish Popery or some other tyrannical way of worship. But it is most certain that no such way of worship can be established without any religious test.

Much, Sir, hath been said about the importation of slaves into this country. I believe that, according to my capacity, no man abhors that wicked practice more than I do, and would gladly make use of all lawful means toward the abolishing of

slavery in all parts of the land. But let us consider where we are, and what we are doing. In the Articles of Confederation, no provision was made to hinder the importation of slaves into any of these States, but a door is now opened hereafter to do it; and each State is at liberty now to abolish slavery as soon as they please. And let us remember our former connection with Great Britain, from whom many in our land think we ought not to have revolted. How did they carry on the slave trade? I know that the Bishop of Gloucester, in an annual sermon, in London, in February, 1766, endeavored to justify their tyrannical claims of power over us, by casting the reproach of the slave trade upon the Americans. But at the close of the war, the Bishop of Chester, in an annual sermon, in February, 1783, ingenously owned, that their nation is the most deeply involved in the guilt of that trade of any nation in the world; and also, that they have treated their slaves in the West Indies worse than the French or Spaniards have done theirs. Thus slavery grows more and more odious through the world; and, as an honorable gentleman said some days ago, "Though we cannot say that slavery is struck with an apoplexy, yet we may hope it will die with a consumption." And a main source, Sir, of that iniquity, hath been an abuse of the covenant of circumcision, which gave the seed of Abraham power to destroy the inhabitants of Canaan, and to take their houses, vineyards, and all their estates, as their own; and also to buy and hold others as servants. And as Christian privileges are much greater than those of Hebrews were, many have imagined that they had a right to seize upon the lands of the heathen, and to destroy or enslave them as far as they could extend their power. And from thence the mystery of iniquity carried many into the practice of making merchandise of slaves and souls of men. But all ought to remember that when God promised the land of Canaan to Abraham and his seed, he let him know that they were not to take possession of that land until the iniquity of the Amorites was full; and then they did it under the immediate direction of Heaven; and they were as real executors of the judgment of God upon those heathen, as any person ever was an executor of a criminal justly condemned. And in doing it they were not allowed to invade the lands of the

Edomites, who sprang from Esau, who was not only of the seed of Abraham, but was born at the same birth with Israel; and yet they were not of that church. Neither was Israel allowed to invade the lands of the Moabites, or of the children of Ammon, who were of the seed of Lot. And no officer in Israel had any legislative power, but such as were immediately inspired. Even David, the man after God's own heart, had no legislative power, but only as he was inspired from above; and he is expressly called a prophet in the New Testament. And we are to remember that Abraham and his seed, for four hundred years, had no warrant to admit any strangers into that church, but by buying of him as a servant, with money. And it was a great privilege to be bought and adopted into a religious family for seven years, and then to have their freedom. And that covenant was expressly repealed in various parts of the New Testament; and particularly in the first epistle to the Corinthians, wherein it is said, "Ye are bought with a price; therefore glorify God in your body, and in your spirit, which are God's." And again: "Circumcision is nothing, and uncircumcision is nothing, but keeping of the commandments of God. Ye are bought with a price; be not ye the servants of men?" Thus the gospel sets all men upon a level; very contrary to the declaration of an honorable gentleman in this house, "That the Bible was contrived for the advantage of a particular order of men."

Another great advantage in the Constitution before us, is its excluding all titles of nobility or hereditary succession of power; which hath been a main engine of tyranny in foreign countries. But the American Revolution was built upon the principle that all men are born with an equal right to liberty and property, and that officers have no right to any power but what is fairly given them by the consent of the people. And in the Constitution now proposed to us, a power is reserved to the people, constitutionally to reduce every officer again to a private station; and what a guard is this against their invasion of others' rights or abusing of their power! Such a door is now opened for the establishing of righteous government, and for securing equal liberty, as never was before opened to any people upon earth.

Dr. JARVIS. Mr. President: The objections which gentlemen have made to the form of ratification which has been submitted by your Excellency, have arisen, either from a doubt of our having a right to propose alterations, or from the supposed improbability that any amendments recommended by this assembly, will ever become a part of the Federal system. If we have no right, Sir, to propose alterations, there remains nothing further to be attempted, but to take the final question, independent of the propositions for amendment. But, I hope that the mere assertion of any one is not to operate as an argument in this assembly; and we are yet waiting for evidence to prove this very singular position, which has been so often repeated. If we have a right, Sir, to receive or reject the Constitution, surely we have an equal authority to determine in what way this right shall be exercised. It is a maxim, I believe universally admitted, that in every instance, the manner in which every power is to be exerted, must be in its nature discretionary with that body to which this power is delegated. If this principle be just, Sir, the ground which has been taken to oppose your Excellency's proposal, by disputing the right of recommending alterations, must be necessarily relinquished. But gentlemen say, that they find nothing about amendments in the commission under which they were acting, and they conceive it neither agreeable to the resolution of the legislature, nor to the sense of their constituents, that such a scheme should be adopted. Let us inquire then, Sir, under what authority we are acting; and to what tribunal we are amenable. Is it then, Sir, from the late Federal Convention, that we derive our authority? Is it from Congress, or is it even from the legislature itself? It is from neither, Sir: we are convened in right of the people, as their immediate representatives, to execute the most important trust which it is possible to receive; and we are accountable, in its execution, to God only, and our own consciences. When gentlemen assert, then, that we have no right to recommend alterations, they must have ideas strangely derogatory to the influence and authority of our constituents, whom we have the honor of representing. But should it be thought there was even a part of the people who conceived we were thus restricted as to the

forms of our proceedings, we are still to recollect that their aggregate sense, on this point, can only be determined by the voices of the majority in this Convention. The arguments of those gentlemen who oppose any propositions of amendments, amount simply to this, Sir, that the whole people of Massachusetts, assembled by their delegates, on the most solemn and interesting occasion, are not at liberty to resolve in what form this trust shall be executed. When we reflect seriously and coolly on this point, I think, Sir, we shall doubt no longer.

But with respect to the prospect of these amendments, which are the subject of discussion, being adopted by the first Congress which shall be appointed under the new Constitution, I really think, Sir, that it is not only far from being improbable, but is in the highest degree likely. I have thought long and often on the subject of amendments, and I know no way in which they could be more likely to succeed. If they were made conditional to our receiving the proposed Constitution, it has ever appeared to me, that a conditional amendment must operate as a total rejection. As so many other States have received the Constitution as it is, how can it be made to appear that they will not adhere to their own resolutions? and should they remain as warmly and pertinaciously attached to their opinion, as we might be decidedly in favor of our own sentiments, a long and painful interval might elapse before we should have the benefit of a Federal Constitution. I have never yet heard an argument to remove this difficulty. Permit me to inquire of gentlemen what reason we have to suppose that the States which have already adopted the Constitution, will suddenly consent to call a new Convention, at the request of this State. Are we going to expose the Commonwealth to the disagreeable alternative of being forced into a compliance, or of remaining in opposition, provided nine others should agree to receive it? As highly as some persons talk of the force of this State, I believe we should be but a feeble power, unassisted by others, and detached from the general benefit of a national government. We are told, that under the blessing of Providence, we may do much. It is very true, Sir, but it must be proved, that we shall be most likely to secure the approbation of Heaven by refusing the proposed system.

It has been insinuated, Sir, that these amendments have been artfully introduced to lead to a decision which would not otherwise be had. Without stopping to remark on the total want of candor in which such an idea has arisen, let us inquire whether there is even the appearance of reason to support this insinuation. The propositions are annexed, it is true, to the ratification; but the assent is complete and absolute without them. It is not possible it can be otherwise understood by a single member in this honorable body. Gentlemen, therefore, when they make such an unjust observation, do no honor to the sagacity of others. Supposing it possible that any single member can be deceived by such a shallow artifice, permit me to do justice to the purity of intention in which they have arisen, by observing, that I am satisfied nothing can be farther from your Excellency's intentions. The propositions are general, and not local; they are not calculated for the peculiar interests of this State, but with indiscriminate justice comprehend the circumstances of the individual on the banks of the Savannah, as well as of the hardy and industrious husbandman on the margin of the Kennebec. Why then they should not be adopted, I confess I cannot conceive. There is one of them in a particular manner which is very agreeable to me. When we talk of our wanting a bill of rights to the new Constitution, the first article proposed must remove every doubt on this head; as, by positively securing what is not expressly delegated, it leaves nothing to the uncertainty of conjecture, or to the refinements of implication, but is an explicit reservation of every right and privilege which are nearest and most agreeable to the people. There has been scarcely an instance where the influence of Massachusetts has not been felt and acknowledged in the Union. In such a case, her voice will be heard, Sir; and I am fully in sentiment, if these amendments are not engrafted on the Constitution, it will be our own fault. The remaining seven States will have our example before them, and there is a high probability that they, or at least some of them, will take our conduct as a precedent, and will perhaps assume the same mode of procedure. Should this be the fact, their influence will be united to ours. But your delegates will besides be subject to a perpetual instruction, until its object is completed; and it will be always in the power

of the people and legislature to renew those instructions. But if they should fail, we must then acquiesce in the decision of the majority; and this is the known condition on which all free governments depend.

Would gentlemen who are opposed to the Constitution wish to have no amendments? This does not agree with their reiterated objections to the proposed system. Or are they afraid, Sir, that these propositions will secure a larger majority? On such an occasion we cannot be too generally united. The Constitution is a great political experiment. The amendments have a tendency to remove many objections which have been made to it; and I hope, Sir, when it is adopted, that they will be annexed to the ratification in the manner which your Excellency has proposed.

TUESDAY, February 5, 1788.

Mr. AMES observed, that at length it is admitted that the Constitution, connected with the amendments, is good. Almost every one who has appeared against the Constitution, has declared that he approves it, with the *amendments*. One gentleman, who has been distinguished by his zealous opposition, has declared that he would hold up both hands for it, if they could be adopted. I admire this candid manner of discussing the subject, and will endeavor to treat it myself with equal care and fairness. The only question which seems to labor, is this; the amendments are not a part of the Constitution, and there is nothing better than a probability to trust to, that they will ever be adopted. The nature of the debate is totally shifted, and the inquiry is now, not what the Constitution is, but what degree of probability there is, that the amendments will hereafter be incorporated into it.

Before he proceeded to discuss this question, he wished to notice two objections which had been urged against his Excellency's proposition: That this Convention, being confined in their powers to reject or ratify the Constitution as it is, have no right to propose amendments; and that the very propositions

imply the Constitution is not perfect, and amount to a confession that it ought to be rejected. It is well that these objections were not made by a lawyer; they would have been called quibbles, and he would have been accused of having learned them at the bar. Have we no right to propose amendments? This is the fullest representation of the people ever known: and if we may not declare their opinion, and upon a point for which we have been elected, how shall it ever be known? A majority may not fully approve the Constitution; and yet they may think it unsafe to reject it: and they may fully approve his Excellency's propositions. What shall they say? That they accept, or reject, and no more? They may be embarrassed perhaps, to do either. But let them say the truth, that they accept it in the hope that the amendments will obtain. We are chosen to consider the Constitution and it is clearly incident to our appointment to declare the result of our deliberations. This very mode of obtaining amendments is pointed out in the Constitution itself. How can it be said that we have no right then, to propose them? If, however, there was any irregularity in this proceeding, the General Court would not delay to confirm it.

If it is insisted that the Constitution is admitted to be imperfect, let those objectors consider the nature of their own argument. Do they expect a perfect Constitution? Do they expect to find that perfection in government, which they well know is not to be found in nature? There is not a man who is not more or less discontented with his condition in life, and who does not experience a mixture of good and evil. And will he expect that a whole society of men can exclude that imperfection which is the lot of every individual in it? The truth is, we call that condition good and happy, which is so upon the whole. But this Constitution may be good without any amendments, and yet the amendments may be good; for they are not repugnant to the Constitution. It is a gratification to observe how little we disagree in our sentiments: but it is not my purpose to compare the amendments with the Constitution. Whatever opinion may be formed of it by others, Mr. Ames professed to think it comparatively perfect. There was not any government which he knew to subsist, or which he had ever

heard of, that would bear a comparison with the new Constitution. Considered merely as a literary performance, it was an honor to our country; legislators have at length condescended to speak the language of philosophy; and if we adopt it, we shall demonstrate to the sneering world, who deride liberty because they have lost it, that the principles of our government are as free as the spirit of our people.

I repeat it, our debates have been profitable, because upon every leading point we are at last agreed. Very few among us now deny that a federal government is necessary to save us from ruin; that the Confederation is not that government; and that the proposed Constitution, connected with the amendments, is worthy of being adopted. The question recurs, will the amendments prevail and become part of the system? In order to obtain such a system as the Constitution and the amendments, there are but three ways of proceeding; to reject the whole and begin anew; to adopt this plan, upon condition that the amendments be inserted into it; or to adopt his Excellency's propositions.

Those who propose to reject the whole, are bound to show that we shall possess some advantage in forming a system which we do not enjoy at present, or that some obstacles will be removed which impede us now. But will that be the case? Shall we adopt another Constitution with more unanimity than we expect to find in this Convention? Do gentlemen so soon forget their own arguments? We have been told that the new Constitution will be rebellion against the Confederation; that the interests of the States are too dissimilar for an Union; and that Massachusetts can do without the Union, and is a match for all the world. We have been warned of the tendency of all power towards tyranny, and of the danger of trusting Congress with the power of the purse and of the sword; that the system is not perfect; there is no religious test, and slavery is not abolished. Now, Sir, if we reject the Constitution, and after two or three years exertion, another Constitution should be submitted to another Convention of Massachusetts, shall we escape the opposition which is made in this assembly? Will not the same objections then apply, with equal force, to another system? Or do gentlemen expect that a Constitution may be

formed which will not be liable to those objections? Do they expect one which will not annul the Confederation, or that the persons and properties of the people shall not be included in the compact, and that we shall hear no more about armies and taxes? But suppose that it was so framed, who is there even amongst the objectors who would give his vote for so paltry a system? If we reject, we are exposed to the risk of having no Constitution, of being torn with factions, and at last divided into distinct Confederacies.

If we accept, *upon condition*, shall we have a right to send members to the new Congress?. We shall not; and of course this State would lose its voice and influence in obtaining the adoption of the amendments. This is too absurd to need any further discussion.

But in objection to your Excellency's propositions, it is said that it is no more than probable that they will be agreed to by the other States. I ask what is any future thing that we devise, more than probable? What more is another Constitution? All agree that we must have one; and it is easy to perceive that such an one as the majority of the people approve must be submitted to by this State; for what right have an eighth or a tenth part of the people to dictate a government for the whole? It comes to this point, therefore: is any method more likely to induce the people of the United States to concur with Massachusetts, than that proposed by your Excellency? If it is answered that there is none, as I think it must be, then the objection that the chance of obtaining the amendments is no more than probable, will come to the ground, and it will appear that of all chances we depend upon that which is the safest. For when will the voice of Massachusetts have so powerful an influence as at present? There is not any government now to counteract or awe the people. The attention of the people is excited from one end of the States to the other, and they will watch and control the conduct of their members in Congress. Such amendments as afford better security to liberty will be supported by the people. There will be a Congress in existence to collect their sentiments and to pursue the objects of their wishes. Nine States may insert amendments into the Constitution; but if we reject

it, the vote must be unanimous. Our State in that case, would lose the advantage of having representatives according to the numbers, which is allowed by the Constitution. Upon a few points, and those not of a local nature, unanimity may be expected. But in discussing a whole Constitution, in which the very amendments, that it is said will not be agreed to by the States, are to be inserted, unanimity will be almost a miracle. Either the amendments will be agreed to by the Union, or they will not. If it is admitted that they will be agreed to, then there is an end of the objection to your Excellency's propositions, and we ought to be unanimous for the Constitution. If it is said that they will not be agreed to, then it must be because they are not approved by the United States, or at least, nine of them. Why shall we reject the Constitution, then, for the sole purpose of obtaining that unanimous vote of thirteen States, which it is confidently said it is impossible we ever shall obtain from nine only? An object which is impossible is out of the question. The argument that the amendments will not prevail is not only without force, but directly against those who use it, unless they admit that we have no need of a government, or assert that by ripping up the foundations of compact, upon which we now stand, and setting the whole Constitution afloat, and introducing an infinity of new subjects of controversy, we pursue the best method to secure the entire unanimity of thirteen States.

But shall we put everything that we hold precious to the hazard, by rejecting this Constitution? We have great advantages by it in respect of navigation; and it is the general interest of the States that we should have them. But if we reject it, what security have we that we shall obtain them a second time, against the local interests and prejudices of the other States? Who is there that really loves liberty, that will not tremble for its safety, if the Federal government should be dissolved? Can liberty be safe without government?

The period of our political dissolution is approaching. Anarchy and uncertainty attend our future state; but this we know, that liberty, which is the soul of our existence, once fled, can return no more.

The Union is essential to our being as a nation. The pillars

that prop it, are crumbling to powder. The Union is the vital sap that nourishes the tree. If we reject the Constitution, to use the language of the country, we girdle the tree, its leaves will wither and its branches drop off, and the mouldering trunk will be torn down by the tempest. What security has this single State against foreign enemies? Could we defend the mast country which the Britons so much desire? Can we protect our fisheries or secure by treaties a sale for the produce of our lands in foreign markets? Is there no loss, no danger, by delay? In spite of our negligence and perverseness, are we to enjoy, at all times, the privilege of forming a Constitution which no other nation has ever enjoyed at all? We approve our own form of State government, and seem to think ourselves in safety under its protection. We talk as if there was no danger in deciding wrong. But when the inundation comes, shall we stand on dry land? The State government is a beautiful structure. It is situated, however, upon the naked beach. The Union is the dike to fence out the flood. That dike is broken and decayed, and if we do not repair it, when the next spring-tide comes, we shall be buried in one common destruction.

Mr. BARRELL (of York). Awed in the presence of this august assembly; conscious of my inability to express my mind fully on this important occasion, and sensible how little I must appear in the eyes of those giants of rhetoric, who have exhibited such a pompous display of declamation; without any of those talents calculated to draw attention; without the pleasing eloquence of Cicero, or the blaze of Demosthenian oratory, I rise, Sir, to discharge my duty to my constituents, who I know, expect something more from me than merely a silent vote. With no pretensions to talents above the simple language adapted to the line of my calling, the plain husbandman, I hope the gentlemen who compose this honorable body will fully understand me when I attempt to speak my mind of the Federal Constitution as it now stands. I wish, Sir, to give my voice for its amendment before it can be salutary for our acceptance; because, Sir, notwithstanding the Wilsonian oratory, and all the learned arguments I have seen written, notwithstanding the many labored speeches I have heard in

its defence, and after the best investigation I am able to give this subject, I fear it is pregnant with baneful effects, although I may not live to feel them.

Because, Sir, as it now stands, Congress will be vested with more extensive powers than ever Great Britain exercised over us, too great in my opinion to entrust with any class of men, let their talents or virtues be ever so conspicuous, even though composed of such exalted, amiable characters as the great Washington: for while we consider them as men of like passions, the same spontaneous, inherent thirst for power with ourselves; great and good as they may be, when they enter upon this all important charge, what security can we have that they will continue so? And, Sir, were we sure they would continue the faithful gaurdians of our liberties, and prevent any infringement on the privileges of the people, what assurance can we have that such men will always hold the reins of government; that their successors will be such? History tells us Rome was happy under Augustus, though wretched under Nero, who could have no greater power than Augustus: and yet this same Nero, when young in government, could shed tears on signing a death warrant, though afterwards he became so callous to the tender feelings of humanity, as to behold with pleasure, Rome in flames.

Because, Sir, I think that six years is too long a term for any set of men to be at the helm of government; for in that time they may get so firmly rooted, and their influence be so great as to continue themselves for life.

Because, Sir, I am not certain we are able to support the additional expense of such a government.

Because, Sir, I think a continental collector will not be so likely to do us justice in collecting the taxes, as collectors of our own.

Because, Sir, I think a frame of government on which all laws are founded, should be so simple and explicit, that the most illiterate may understand it, whereas this appears to me so obscure and ambiguous that the most capacious mind cannot fully comprehend it.

Because, Sir, the duties of excise and impost, and to be taxed besides, appear too great a sacrifice: and when we have

given them up, what shall we have to pay our own debts but a dry tax?

Because, Sir, I do not think this will produce the efficient government we are in pursuit of.

Because, Sir, they fix their own salaries, without allowing any control.

And because, Sir, I think such a government may be disagreeable to men with the high notions of liberty we Americans have.

And, Sir, I could wish this Constitution had not been in some parts of the continent hurried on like the driving of Jehu, very furiously, for such important transactions should be without force, and with cool deliberation. These, Sir, were my objections, and those of my constituents, as they occur to my memory; some of which have been removed in the course of the debates, by the ingenious reasoning of the speakers; I wish I could say the whole were. But, after all, there are some yet remain on my mind, enough to convince me, excellent as this system is, in some respects it needs alterations; therefore, I think it becomes us, as wise men, as the faithful guardians of the people's rights, and as we wish well to posterity, to propose such amendments as will secure to us and ours that liberty, without which life is a burden.

Thus, Sir, have I ventured to deliver my sentiments, in which are involved those of my constituents, on this important subject, cautiously avoiding every thing like metaphysical reasoning, lest I should invade the prerogative of those respectable gentlemen of the law, who have so copiously displayed their talents on this occasion. But, Sir, although you may perceive, by what I have said, that this is not, in my view, the most perfect system I could wish; yet as I am possessed with an assurance that the proposed amendments will take place; as I dread the fatal effects of anarchy; as I am convinced the Confederation is essentially deficient, and that it will be more difficult to amend that than to reform this; and as I think this Constitution, with all its imperfections, is excellent compared with that; and that it is the best Constitution we can now obtain; as the greatest good I can do my country at present, I could wish for an adjournment, that I might have an opportunity to lay it

before my constituents with the arguments which have been used in the debates, which have eased my mind, and I trust would have the effect on theirs, so as heartily to join me in ratifying the same. But, Sir, if I cannot be indulged on this desirable object, I am almost tempted to risk their displeasure and adopt it without their consent.

Dr. TAYLOR examined the observations of several gentlemen, who had said, that had the Constitution been so predicated as to require a bill of rights to be annexed to it it would have been the work of a year, and could not be contained but in volumes. This, if true, he said, was an argument in favor of one being annexed; but so far from its being the case, he believed any gentleman in that Convention could form one in a few hours; as he might take the bill of rights of Massachusetts for a guide. He concluded by objecting to the amendments, because no assurance was given that they ever would become a part of the system.

Mr. PARSONS demonstrated the impracticability of forming a bill, in a national Constitution, for securing individual rights, and showed the inutility of the measure, from the idea, that no power was given to Congress to infringe on any one of the natural rights of the people by this Constitution; and should they attempt it, without constitutional authority, the act would be a nullity and could not be enforced.

Several other gentlemen spoke in a desultory conversation on the amendments. It was urged again and again, on one side, that it was uncertain whether they would ever be interwoven in the Constitution; and that, therefore, they could not vote for it on that precarious condition. On the other side, the importance of the opinion of Massachusetts, in other States, in determining on great political questions, the general nature of the amendments proposed, &c., were repeatedly urged in favor of their being a part of the ratification.

[A motion was made by Mr. DENCH, and seconded: That for the purpose of informing the good people of this Commonwealth of the principles of the proposed Federal Constitution, and the amendments offered by his Excellency the President, and reported by the committee; and of uniting their opinions respecting the same, this Convention do adjourn to a future

day. After debate, (which continued the best part of the day,) the question was put, and was determined in the negative; three hundred and twenty-nine members being present, and one hundred and fifteen only voting in the affiramtive.]

WEDNESDAY, February 6, 1788.

[The Hon. Mr. ADAMS introduced some amendments to be added to those reported by the committee; but they not meeting the approbation of those gentlemen whose minds they were intended to ease, after they were debated a considerable time, the honorable gentlemen withdrew them.]

Rev. Mr. STILLMAN. Mr. President: I rise, with deference to gentlemen of superior abilities, to give my opinion on the all important national question, and the reasons on which it is founded; an opinion, the result of the most serious deliberation.

Upon entering the Convention, it was my full determination to keep my mind cool and open to conviction, that so I might profit by the discussion of this interesting subject; and now, Sir, return my sincere thanks to the gentlemen who have taken opposite sides in the course of the debates. From both I have received advantage: from one class, in bringing forward a great variety of objections; from the other class, in answering them. Whatever my previous opinion was, I now stand on firmer ground than ever, respecting the proposed Constitution.

But my present situation, Sir, is to me extremely affecting. To be called by the voice of my fellow citizens to give my vote for or against a Constitution of government that will involve the happiness or misery of millions of my countrymen, is of so solemn a nature as to have occasioned the most painful anxiety.

I have no interest to influence me to accept this Constitution of government, distinct from the interest of my countrymen at at large. We are all embarked in one bottom and must sink or swim together.

Besides, Sir, Heaven has fixed me in a line of duty that precludes every prospect of the honors and the emoluments of

office. Let who will govern, I must obey. Nor would I exchange the pulpit for the highest honors my country can confer. I, too, have personal liberties to secure, as dear to me as any gentlemen in the Convention, and as numerous a family, probably, to engage my attention. Besides which, I stand here, with my very honorable colleagues, as a representative of the citizens of this great metropolis who have been pleased to honor me with their confidence; an honor, in my view, unspeakably greater than a peerage or a pension.

The absolute deficiency of the Articles of Confederation is allowed by all. Nor have I seen any publication that places this subject in so convincing a point of light as a letter written by his Excellency Governor Randolph, which has appeared in several of our newspapers; whom I the rather introduce on this occasion, because he was a delegate in the late Federal Convention, refused to sign the Constitution before us, and has been twice mentioned by gentlemen in the opposition. His candor, apparent in the letter referred to, does him honor, and merits the esteem of every candid mind. I declare, Sir, I revere his character, while I differ from him in opinion.

"Before my departure for the (Federal) Convention," says he, "I believed that the Confederation was not so eminently defective as it had been supposed. But after I had entered into a free conversation with those who were best informed of the condition and interest of each State; after I had compared the intelligence derived from them, with the properties that ought to characterize the government of our Union, I became persuaded that the Confederation was destitute of every energy which a Constitution of the United States ought to possess." And after he had in a most masterly manner proved its inefficiency, he adds, "But now, Sir, permit me to declare, that in my humble judgment, the powers, by which alone the blessings of a general government can be accomplished, cannot be interwoven in the Confederation, without a change of its very essence; or, in other words, that that Confederation must be thrown aside." Having stated his objections to it, he proceeded thus: "My inference from these facts and principles is, that the new powers must be deposited in a new body, growing out of the consolidation of the Union, as far as the circumstances of the States

will allow." Thus fully and candidly does this gentleman insist on the absolute necessity of a new Constitution of general government, at the very time that he objected to the present form, and concludes his letter with these memorable words, which I most heartily wish may make a deep impression on the mind of every gentleman in the opposition: "I hesitate not to say, that the most fervent prayer of my soul is the establishment of a firm, energetic government; that the most inveterate curse that can befal us is a dissolution of the Union; and that the present moment, if suffered to pass away unemployed, can never be recalled. I shall therefore cling to the Union as the rock of our salvation, and urge Virginia to finish the salutary work which she hath begun. And if, after our best efforts for amendments, they cannot be obtained, I scruple not to declare (notwithstanding the advantage the declaration may give to the enemies of my proposal) that I will, as an individual citizen, accept the Constitution."

I pause, Sir, that every gentleman present may have time to indulge those feelings which these excellent expressions must occasion. May that God who has the hearts of all men under his control, inspire every member of this Convention with a similar disposition! Then shall we lay aside every opposite interest, and unite, as a band of brothers, in the ratification of this Constitution of national government.

Then, Sir, will your terms of conciliation be attended to with gratitude and candor. Your Excellency, depressed with bodily infirmity, and exercised with severe pain, has stepped forth at the critical moment, and, from the benevolence of your heart, presented us with a number of proposed amendments, in order, if possible, to quiet the minds of the gentlemen in the opposition and bring us together in amity and peace; amendments which you, Sir, declare you do not think necessary, except for the sole purpose of uniting us in a common and most important cause.

But what has been the consequence of your Excellency's conciliatory propositions? Jealousy; jealousy, Sir, that there was a snake in the grass; a secret intention to deceive! I shudder at the ungenerous suggestion; nor will I dwell a moment longer on the distressing idea. Be banished forever,

the groundless suspicion of him whose name stands foremost in the list of American patriots! Let love and harmony prevail.

The important hour is just arrived when the die will be cast, that will, in a great measure, determine the fate of this Commonwealth and have a mighty influence on the general interest of the Union; for, from the best information I have been able to collect from gentlemen of observation and of undoubted veracity, there is the greatest reason to fear that the rejection of this Constitution will be followed with anarchy and confusion.

The Convention, I doubt not, will bear with me while I take a general view of the Constitution before us.

From all that has been said on the subject of biennial elections, it is my decided opinion, that two years in the general government will not be in proportion to one year in the local governments; because, in the former, the objects of government will be great, numerous and extensive; in the latter, comparatively small and limited. The general government involves all the States now in the Union; all such as shall in future accede to it; all foreign nations with whom we are now, or hereafter shall be, in alliance; an extensive and growing commerce; war and peace, &c., &c.

It has been said, that this is a stride toward septennial elections or perpetuity in office. I answer, the Constitution itself is to be the rule; that declares, that "representatives shall be chosen every second year by the people of the several States." Elections then of representatives must be every second year; nor can they be otherwise, without a direct violation of the Constitution. The men who shall be wicked enough to do this, would not be restrained had the elections been annual; it being equally easy to violate the Constitution in the one case as in the other. Elections, indeed, ought to be so frequent as to make the representatives feel that they are dependent on, and amenable to, the people. The difference then between annual and biennial elections is small; and in either case will answer the end just mentioned.

The powers that are granted to Congress by this instrument are great and extensive; but, Sir, they are defined and limited, and, in my judgment, sufficiently checked; which I shall prove before I sit down. These powers have been the subject of long

and ingenious debate. But the arguments that have been made use of against delegating these powers to the general government prove too much, being applicable to all delegated power; I mean the possible abuse of it. The very term, *government*, implies a supreme, controlling power somewhere; a power to coerce, whenever coercion shall be necessary; of which necessity government must be the judge. This is admitted; if so, the power may be abused. Every gentleman must confess, that we cannot give a power to do good, but it may be abused to do evil. If a merchant commits the care of a ship and cargo to the master, he may dispose of both and appropriate the money to his own use. If we raise a body of men and put arms into their hands for our defence, they may turn them against us and destroy us. All these things prove, however, that in order to guard as much as possible against the abuse of those powers we delegate to government, there ought to be sufficient checks to them; every precaution should be used to secure the liberties of the people on the one hand and not render the government inefficient on the other. I believe, Sir, such security is provided in this Constitution; if not, no consideration shall induce me to give my voice in its favor. But the people are secured by the following circumstances:—

1st. All the offices in Congress are elective, not hereditary. The president and senators are to be chosen by the interposition of the legislatures of the several States, who are the representatives and guardians of the people; whose honor and interest will lead them, in all human probability, to have good men placed in the general government.

2d. The representatives in Congress are to be chosen every second year by the people in the several States. Consequently it lies with the people, themselves, to say who shall represent them. It will then be their own fault if they do not choose the best men in the Commonwealth.

Who are Congress, then? They are ourselves; the men of our own choice, in whom we can confide; whose interest is inseparably connected with our own. Why is it, then, that gentlemen speak of Congress as some foreign body—as a set of men who will seek every opportunity to enslave us? Such institutions are repugnant to the spirit of the Constitution.

But a worthy gentleman from Middleborough has told us, that though they may be good men when chosen, they may become corrupt. They may so; nor is it in the power of angels or men to prevent it; but should this be the case, the Constitution has made provision for such an event. When it happens, we shall know what method to adopt, in order to bring them to punishment.

In all governments where officers are elective, there ever has been, and there ever will be, a competition of interests. They who are in office wish to keep in, and they who are out, to get in; the probable consequence of which will be, that they who are already in place, will be attentive to the rights of the people, because they know that they are dependent on them for a future election which can be secured by good behavior only. Besides, they who are out of office will watch them who are in with a most critical eye, in order to discover and expose their mal-conduct, if guilty of any, that so they may step into their places. Every gentleman knows the influence that a desire to obtain a place, or the fear of losing it, hath on mankind. Mr. Burgh tells us, that towards the close of the seven years for which the representatives are chosen in the British Parliament, they become exceedingly polite to the people. Why? Because they know there is an approaching election depending. This competition of interest, therefore, between those persons who are in and those who are out of office, will ever form one important check to the abuse of power in our representatives.

3d. Every two years there will be a revolution in the general government in favor of the people. At the expiration of the first two years there will be a new choice of representatives; at the expiration of the second two years there will be a new choice of president and representatives; and at the expiration of the third term, making six years from the commencement of the Congress, there will be a new choice of senators and representatives. We all know, Sir, that power thus frequently reverting to the people will prove a security to their liberties, and a most important check to the power of the general government.

4th. Congress can make no laws that will oppress the people which will not equally involve themselves in the oppression.

What possible motive then can Congress have to abuse their power? Can any man suppose that they will be so lost to their own interest as to abuse their power, knowing, at the same time, that they equally involve themselves in the difficulty? It is a most improbable supposition. This would be like a man's cutting off his nose to spite his face. I place this, Sir, among the securities of the liberties of my fellow-citizens, and rejoice in it.

5th. Congress guarantee to every State in the Union a republican form of government, and engage to protect them against all foreign and domestic enemies; that is, as it hath been justly observed by the honorable gentleman (Mr. Adams) near me, of known and tried abilities as a politician, each State shall choose such republican form of government as they please, and Congress solemnly engage themselves to protect it from every kind of violence, whether of faction at home or enemies abroad. This is an admirable security of the people at large, as well as of the several governments of the States; consequently the general government cannot swallow up the local governments, as some gentlemen have suggested. Their existence is dependent on each other, and must stand or fall together. Should Congress ever attempt the destruction of the particular legislatures, they would be in the same predicament with Samson, who overthrew the house in which the Philistines were making sport at his expense; them he killed indeed, but he buried himself in the ruins.

6th. Another check in favor of the people is this: That the Constitution provides for the impeachment, trial and punishment of every officer in Congress who shall be guilty of malconduct. With such a prospect, who will dare to abuse the powers vested in him by the people?

7th. Having thus considered several of the checks to the powers of Congress, which are interwoven with the Constitution, we will now suppose the worst that can take place in consequence of its adoption: I mean that it shall be found in some of its parts oppressive to the people; still we have this dernier resort—it may be amended. It is not like the laws of the Medes and Persians, immutable. The fifth article provides for amendments.

It has been said, it will be difficult after its ratification to

procure any alterations. By no means, Sir; for this weighty reason: it is a general government, and as such, will have a general influence; all the States in the Union will feel the difficulty; and, feeling it, will readily concur in adopting the method provided by the Constitution. And having once made the trial, experience will teach us what amendments are necessary.

Viewing the Constitution in this light, I stand ready to give my vote for it without any amendments at all. Yet, if the amendments proposed by your Excellency will tend to conciliation, I readily admit them, not as a condition of acceptance, but as a matter of recommendation only; knowing that, "Blessed are the peace makers." I am ready, Sir, to submit my life, my liberty, my family, my property, and, as far as my vote will go, the interest of my constituents, to the general government.

After all, if this Constitution was as perfect as the sacred volume is, it would not secure the liberties of the people unless they watch their own liberties. Nothing written on paper will do this. It is therefore necessary that the people should keep a watchful, not an over jealous, eye on their rulers; and that they should give all due encouragement to our colleges, schools of learning, &c., that so knowledge may be diffused through every part of our country. Ignorance and slavery, knowledge and freedom, are inseparably connected. While Americans remain in their present enlightened condition and warmly attached to the cause of liberty, they cannot be enslaved. Should the general government become so lost to all sense of honor and the freedom of the people, as to attempt to enslave them, they who are the descendants of a race of men who have dethroned kings, would make an American Congress tremble, strip them of their public honors and reduce them to the lowest state of degradation.

AFTERNOON.

Hon. Mr. TURNER. Mr. President: Being advanced in life, and having endeavored, I hope, with a faithful attention, according to my ability, to assist my country in her trying

difficulties and dangers, for more than twenty years; and as for three weeks past my state of health has been such as to render me unable to speak in this assembly, I trust I shall be heard with some indulgence while I express a few sentiments at this solemn crisis. I have been averse to the reception of this Constitution while it was considered merely in its original form; but since the honorable Convention have been pleased to agree to the recommendation of certain amendments, I acknowledge my mind is reconciled. But even thus amended, I still see, or think I see, several imperfections in it, and some which give me pain. Indeed, I never expect to see a Constitution free from imperfections; and, considering the great diversity of local interests, views and habits—considering the unparalleled variety of sentiments among the citizens of the United States—I despair of obtaining a more perfect Constitution than this, at present. And a Constitution preferable to the Confederation must be obtained, and obtained soon, or we shall be an undone people. In my judgment there is a rational probability, a moral certainty, that the proposed amendments will meet the approbation of the several States in the Union. If there is any respect due to the hoary head of Massachusetts, it will undoubtedly have its proper influence in this case. The minds of gentlemen, throughout the nation, must be impressed with such a sense of necessity of all important union, especially in our present circumstances, as must strongly operate in favor of a concurrence. The proposed amendments are of such a liberal, such a generous, such a catholic nature and complexion, they are so congenial to the soul of every man who is possessed of a patriotic regard to the preservation of the just rights and immunities of his country, as well as to the institution of a good and necessary government, that I think they must, they will be universally accepted. When, in connection with this confidence, I consider the deplorable state of our navigation and commerce, and various branches of business thereon dependent, the inglorious and provoking figure we make in the eyes of our European creditors, the degree in which the landed interest is burdened and depreciated, the tendency of depreciating paper and tender acts to destroy mutual confidence, faith and credit, to prevent the circulation of specie, and to overspread the

land with an inundation, a chaos of multiform injustice, oppression and knavery; when I consider that want of efficiency there is in our government, as to obliging people seasonably to pay their dues to the public, instead of spending their money in support of luxury and extravagance, of consequence the inability of government to satisfy the just demands of its creditors, and to do it in season, so as to prevent their suffering amazingly by depreciation; in connection with my anxious desires that my ears may be no longer perstringed, nor my heart pained with the cries of the injured, suffering widow and orphan; when I also consider that state of our finances which daily exposes us to become a prey to the despotic humor even of an impotent invader, I find my myself constrained to say, before this Assembly, and before God, that I think it my duty to give my vote in favor of this Constitution, with the proposed amendments;[20] and unless some further light shall be thrown in my way to influence my opinion, I shall conduct accordingly. I know not whether this Convention will vote a ratification of this Constitution or not. If they should do it, and have the concurrence of the other States, may that God, who has always in a remarkable manner watched over us and our fathers for good, in all difficulties, dangers and distresses, be pleased to command his almighty blessing upon it, and make it instrumental of restoring justice, honor, safety, support and salvation to a sinking land. But I hope it will be considered by persons of all orders, rank and ages, that without the preva-

[20] [We find the following interesting incident connected with the speech of Mr. Turner, in the *Centinel* of March 8, 1788:—

"On the day of the final decision on the question of ratifying the Federal Constitution, by our Convention, when the Hon. Mr. Turner rose to make some observations on the subject, Dr. S., a delegate from a neighboring town, who voted in the minority, and who expected the honorable gentleman would do so too, whispered to a worthy member in the pew with him, 'Now, Sir, you will hear the truth.' When the honorable gentleman began to mention the dangers of rejecting the Constitution, the Doctor began to stare, but at the close of his speech, when he expressed his determination of voting in favor of it, the Doctor, rolling up his eyes and raising his hands, ejaculated, 'Help, Lord, for the righteous man faileth—the faithful fail from among the children of men.'"]

lence of Christian piety and morals, the best republican Constitution can never save us from slavery and ruin. If vice is predominant, it is to be feared we shall have rulers whose grand object will be (slily evading the spirit of the Constitution) to enrich and aggrandize themselves and their connections, to the injury and oppression of the laborious part of the community; while it follows, from the moral constitution of the Deity, that prevalent iniquity must be the ruin of any people. The world of mankind have always, in general, been enslaved and miserable, and always will be, until there is a greater prevalence of Christian moral principles; nor have I an expectation of this, in any great degree, unless some superior mode of education shall be adopted. It is education which almost entirely forms the character, the freedom or slavery, the happiness or misery, of the world. And if this Constitution shall be adopted, I hope the Continental Legislature will have the singular honor, the indelible glory, of making it one of their first acts, in their first session, most earnestly to recommend to the several States in the Union, the institution of such means of education, as shall be adequate to the divine, patriotic purpose of training up the children and youth at large, in that solid learning, and in those pious and moral principles, which are the support, the life and soul of republican government and liberty, of which a free Constitution is the body; for as the body without the spirit is dead, so a free form of government without the animating principles of piety and virtue, is dead also, being alone. May religion, with sanctity of morals, prevail and increase, that the patriotic civilian and ruler may have the sublime, parental satisfaction of eagerly embracing every opportunity of mitigating the rigors of government in proportion to that increase of morality which may render the people more capable of being a law to themselves. How much more blessed this, than to be employed in fabricating Constitutions of a higher tone, in obedience to necessity, arising from an increase of turbulent vice and injustice in society! I believe your Excellency's patience will not be further exercised by hearing the sound of my voice on the occasion, when I have said: May the United States of America live before God! May they be enlightened, pious, virtuous, free and happy, to all generations!

Capt. SOUTHWORTH spoke a short time against the adoption of the Constitution, but the worthy gentleman, from indisposition of body, not being able to complete his speech, we cannot give it to the public.

Mr. SYMMES. Mr. President: I hope, Sir, the Convention will indulge me with a few words, and I promise them I will not detain them long. It may be known to your Excellency, that I have heretofore had the honor to address the Convention in opposition to a certain paragraph in the Constitution. That fact is the sole occasion of my craving a turn to be heard again.

Sir, it never was my opinion that we ought entirely to abandon this Constitution. I thought it had great defects, and I still think it by no means free from blemishes; but I ever expected the worst consequences to follow a total rejection of it. I always intended to urge amendments, and was in hopes that the wisdom of this assembly would devise a method to secure their adoption. Therefore, when your Excellency came forward, as well became your high office, in the character of a mediator, a ray of hope shone in upon the gloom that overspread my heart—of hope, that we should still be united in the grand decision!

Sir, a mortal hatred, a deadly opposition, can be deserved by no government but the tyranny of hell, and perhaps a few similar forms on earth. A government of that complexion, in the present enlightened age, could never enter the heart of man; and if it could, and impudence enough were found to propose it—nay, if it should be accepted—I affirm, Sir, that in America it would never operate a moment. I should glory in debating on my grounds for this assertion; but who will dare to question the truth of it?

Mr. President: So ample have been the arguments drawn from our national distress, the weakness of the present Confederation, the danger of instant disunion, and perhaps some other topics not included in these, that a man must be obstinate indeed to say at this period, that a new government is needless. One is proposed. Shall we reject it totally, or shall we amend it? Let any man recollect or peruse the debates in this assembly, and I venture to say, he shall not be a moment, if he loves his country, in making his election. He would contemplate the idea of rejection with horror and detestation. But,

Sir, it has been alleged that the necessary amendments cannot be obtained in the way your Excellency has proposed. This matter has been largely debated. I beg a moment to consider it. Our Committee, Sir, were pretty well agreed on the amendments necessary to be made, and in their report it appears that these amendments are equally beneficial to all the citizens of America. There is nothing local in them. Shall we then totally reject the Constitution, because we are only morally certain that they will be adopted? Shall we choose certain misery in one way, when we have the best human prospect of enjoying our most sanguine wishes in another? God forbid!

But, Sir, a great deal has been said about the amendments. Here again I refer to the debates. Such has been said to have been the past prevalence of the northern States, in Congress, the sameness of interest in a majority of the States, and their necessary adhesion to each other, that I think there can be no reasonable doubt of the success of any amendments proposed by Massachusetts. Sir, we have, we do, and we shall, in a great measure, give birth to all events, and hold the balance, among the United States.

The honorable gentleman, my respected friend from Scituate, has so fully entered into the expediency of ratifying the Constitution upon the basis of the report, and so ably stated the unanswerable reasons he finds for giving his sanction to it, notwithstanding his former different opinion, that I may decently waive a task I could not half so well perform.

Upon the whole, Mr. President, approving the amendments, and firmly believing that they will be adopted, I recall my former opposition, such as it was, to this Constitution, and shall, especially as the amendments are to be a standing instruction to our delegates until they are obtained, give it my unreserved assent.

In so doing, I stand acquitted to my own conscience, I hope and trust I shall to my constituents, and (laying his hand on his breast) I know I shall before my God.

The time agreed upon for taking the question being arrived, and the same being called for from every quarter,

His Excellency the PRESIDENT rose, and addressed the honorable Convention as follows:—

Gentlemen—Being now called upon to bring the subject under debate to a decision, by bringing forward the question, I beg your indulgence to close the business with a few words. I am happy that my health has been so far restored, that I am rendered able to meet my fellow-citizens as represented in this Convention. I should have considered it as one of the most distressing misfortunes of my life, to be deprived of giving my aid and support to a system, which, if amended (as I feel assured it will be) according to your proposals, cannot fail to give the people of the United States a greater degree of political freedom, and eventually as much national dignity, as falls to the lot of any nation on the earth. I have not, since I had the honor to be in this place, said much on the important subject before us; all the ideas appertaining to the system, as well those which are against as for it, have been debated upon with so much learning and ability, that the subject is quite exhausted.

But you will permit me, gentlemen, to close the whole with one or two general observations. This I request, not expecting to throw any new light upon the subject, but because it may possibly prevent uneasiness and discordance from taking place amongst us and amongst our constituents.

That a general system of government is indispensably necessary to save our country from ruin, is agreed upon all sides. That the one now to be decided upon has its defects, all agree; but when we consider the variety of interests, and the different habits of the men it is intended for, it would be very singular to have an entire union of sentiment respecting it. Were the people of the United States to delegate the powers proposed to be given, to men who were not dependent on them frequently for elections—to men whose interests, either from rank or title, would differ from that of their fellow-citizens in common—the task of delegating authority would be vastly more difficult; but as the matter now stands, the powers reserved by the people render them secure, and until they themselves become corrupt, they will always have upright and able rulers. I give my assent to the Constitution, in full confidence that the amendments proposed will soon become a part of the system. These amendments being in no wise local, but calculated to give security and ease alike to all the States, I think that all will agree to them.

Suffer me to add, that let the question be decided as it may, there can be no triumph on the one side, or chagrin on the other. Should there be a great division, every good man, every one who loves his country, will be so far from exhibiting extraordinary marks of joy, that he will sincerely lament the want of unanimity, and strenuously endeavor to cultivate a spirit of conciliation, both in Convention, and at home. The people of this Commonwealth are a people of great light, of great intelligence in public business. They know that we have none of us an interest separate from theirs; that it must be our happiness to conduce to theirs; and that we must all rise or fall together. They will never, therefore, forsake the first principle of society, that of being governed by the voice of the majority; and should it be that the proposed form of government should be rejected, they will zealously attempt another. Should it, by the vote now to be taken, be ratified, they will quietly acquiesce, and where they see a want of perfection in it, endeavor in a constitutional way to have it amended.

The question now before you is such as no nation on earth, without the limits of America, has ever had the privilege of deciding upon. As the Supreme Ruler of the Universe has seen fit to bestow upon us this glorious opportunity, let us decide upon it, appealing to him for the rectitude of our intentions, and in humble confidence that he will yet continue to bless and save our country.

[The question being put, it was decided in the affirmative—yeas 187, nays 168.] [a]

On the motion for ratifying being declared in the affirmative, by a majority of nineteen,

The Hon. Mr. WHITE rose and said, that notwithstanding he had opposed the adoption of the Constitution, upon the idea that it would endanger the liberties of his country, yet as a majority had seen fit to adopt it, he should use his utmost exertions to induce his constituents to live in peace under, and cheerfully submit to it.

He was followed by Mr. WEDGERY, who said that he should return to his constituents, and inform them that he had opposed

[a] [See Journal, pages 88 to 92.]

the adoption of this Constitution, but that he had been overruled, and that it had been carried by a majority of wise and understanding men; that he should endeavor to sow the seeds of union and peace among the people he represented; and that he hoped and believed that no person would wish for, or suggest, the measure of a protest; for, said he, we must consider that this body is as full a representation of the people as can be convened. After expressing his thanks for the civility which the inhabitants of this town have shown to the Convention, and declaring, as his opinion, that they had not in the least influenced the decision, he concluded by saying, that he should support, as much as in him lay, the Constitution, and that he believed, as this State had adopted it, that not only nine, but the whole thirteen, would come into the measure.

Gen. WHITNEY said, that though he had been opposed to the Constitution, he should support it as much as if he had voted for it.

Mr. COOLEY (of Amherst) said, that he endeavored to govern himself by the principles of reason; that he was directed to vote against the adoption of the Constitution, and that, in so doing, he had not only complied with his directions, but had acted according to the dictates of his own conscience; and that, as it had been agreed to by a majority, he should endeavor to convince his constituents of the propriety of its adoption.

Dr. TAYLOR also said, he had uniformly opposed the Constitution; that he found himself fairly beaten; and expressed his determination to go home and endeavor to infuse a spirit of harmony and love among the people.

Other gentlemen expressed their inclination to speak, but it growing late, the Convention adjourned to the next morning, ten o'clock.

THURSDAY, February 7, 1788.

The Convention met, when Major NASSON, in a short address, intimated his determination to support the Constitution, and to exert himself to influence his constituents to do the same.

Mr. RANDAL said, he had been uniformaly opposed to the Constitution. He had, he said, fought like a good soldier; but, as he was beat, he should sit down contented, hoping the minority may be disappointed in their fears, and that the majority may reap the full fruition of the blessings they anticipate. In the hope that the amendments recommended by his Excellency the President will take place, I shall, says he, go home and endeavor to satisfy those that have honored me by their choice, so that we may all live in peace.

Major SAWIN declared, that the Constitution had had a fair trial, and that there had not, to his knowledge, been any undue influence exercised to obtain the vote in its favor; that many doubts which lay in his mind had been removed; and that, although he was in the minority, he should support the Constitution as cheerfully and as heartily as though he had voted on the other side of the question.

The Convention then passed the pay roll—amounting to £4,499 2*s*.—and, after unanimously passing votes of thanks to his Excellency the President, the honorable the Vice-President, and the reverend clergymen of the town of Boston, who officiated as Chaplains, for their services, it was

Voted, That when the business of the Convention shall be completed, the members will proceed to the State House to proclaim the ratification, and to take an affectionate leave of each other.

An invitation from a number of the inhabitants of Boston, requesting the members of the Convention to take refreshment at the Senate Chamber, when the ratification of the Constitution should be declared, was read, and thereon

Voted, That the thanks of the Convention be given to the inhabitants of Boston for their polite invitation, and that the Convention will attend as requested.

The business being finished, the Convention proceeded to the State House, when the ratification was proclaimed by JOSEPH HENDERSON, Esq., High-Sheriff of the county of Suffolk, after which the Convention was dissolved.

MESSAGE OF GOVERNOR HANCOCK.

[Extract from the Speech of Gov. HANCOCK, to the Senate and House of Representatives, at the opening of the General Court, held, by adjournment, at Boston, February 27, 1788.]

"In the beginning of your last session I laid before your the Constitution and frame of government for the United States of America, agreed upon by the late general Convention, and transmitted to me by Congress. As the system was to be submitted to the people, and to be decided upon by their delegates in Convention, I forbore to make any remarks upon it. The Convention which you appointed to deliberate upon that important subject, have concluded their session, after having adopted and ratified the proposed plan, according to their resolution, a copy whereof I have directed the secretary to lay before you.

The obvious imbecility of the Confederation of the United States, has too long given pain to our friends, and pleasure to our enemies; but the forming a new system of government, for so numerous a people, of very different views and habits, spread upon such a vast extent of territory, containing such a great variety of soils, and under such extremes of climate, was a task which nothing less than the dreadful apprehension of losing our national existence, could have compelled the people to undertake.

We can be known to the world only under the appellation of the United States; if we are robbed of the idea of our union, we immediately become separate nations, independent of each other, and no less liable to the depredations of foreign powers, than to wars and bloody contentions amongst ourselves. To pretend to exist as a nation without possessing those powers of coerce which are necessarily incident to the national character, would prove a fatal solecism in politics. The objects of the proposed Constitution are, defence against external enemies, and the promotion of tranquillity and happiness amongst the States. Whether it is well calculated for those important purposes, has been the subject of extensive and learned discussion in the Convention which you appointed. I believe there was never a body of men assembled, with greater purity of intention, or with

higher zeal for the public interest. And although when the momentous question was decided, there was a greater division than some expected, yet there appeared a candor, and a spirit of conciliation in the minority, which did them great honor, and afforded a happy presage of unanimity amongst the people at large. Though so many of the members of the late Convention could not feel themselves convinced that they ought to vote for the ratification of this system, yet their opposition was conducted with a candid and manly firmness, and with such marks of integrity and real regard to the public interest, as did them the highest honor, and leaves no reason to suppose that the peace and good order of the government is not their object.

The amendments proposed by the Convention are intended to obtain a constitutional security of the principles to which they refer themselves, and must meet the wishes of all the States. I feel myself assured that they will very early become a part of the Constitution, and when they shall be added to the proposed plan, I shall consider it the most perfect system of government, as to the objects it embraces, that has been known amongst mankind.

Gentlemen:

As that Being in whose hands is the government of all the nations of the earth, and who putteth down one, and raiseth up another, according to His sovereign pleasure, has given to the people of these States a rich and an extensive country; has in a marvellous manner given them a name and a standing among the nations of the world, has blessed them with external peace and internal tranquillity; I hope and pray that the gratitude of their hearts may be expressed by a proper use of those inestimable blessings, by the greatest exertions of patriotism, by forming and supporting institutions for cultivating the human understanding, and for the greatest progress of the arts and sciences, by establishing laws for the support of piety, religion and morality, as well as for punishing vice and wickedness, and by exhibiting on the great theatre of the world, those social, public and private virtues, which give more dignity to a people possessing their own sovereignty, than crowns and diadems afford to sovereign princes."

MINUTES

KEPT BY

CHIEF JUSTICE PARSONS,

OF THE

DEBATES IN CONVENTION.

MINUTES.

JANUARY 15, 1788.

The paragraph in debate was the biennial election of the representatives.

CALEB STRONG. Stated the grounds proceeded on in Federal Convention; determined at first to be triennial; afterwards reduced to biennial; South Carolina having at home biennial elections, and it was a compromise.

FISHER AMES. People cannot, without a representation, exercise any powers but pulling down a government. Man has no natural liberty in a state of nature, because he has no security for it. Too long or too short a time for elections is dangerous and inconvenient. The time must be regulated by the nature of the business the representatives have to do. 1. The extensive dominion to be governed. 2. The object of legislation. 3. The security of the liberties of the people.

GILBERT DENCH. Immaterial whether biennial or annual. My difficulty is, whether biennial elections are secured to the people in the fourth section. He was called to order, for reasoning on that section, by Mr. Dana. After debate, Mr. Dench stated, he was satisfied he was out of order.

Gov. BOWDOIN. Thought that Dench was in order. He was called to order by Mr. Parsons, when, after some debate, the following question was put:—

To reconsider the order of debate passed yesterday, so far as to amend it by allowing any member to refer to any other paragraph which in his opinion relates to the paragraph under debate, and it passed in the affirmative.

Then Gov. BOWDOIN arose. There was no reason for annual elections arising from the course of the sun, for the time of election would then be varied in every planet. He then argued in favor of a biennial election. 1. There was no danger, as

they cannot alter the Constitution. 2. They can lay no burdens but such as they bear their part of. 3. A shorter election would not give sufficient time for information.

Gen. HEATH showed the importance of the subject from the extent of country. Opinions of the best writers show that short elections are necessary. Montesquieu says more than a year would be dangerous. In this country we have always had annual elections; that length of time is necessary to acquaint themselves with their business is a novel observation, for being a representative of the people implies a knowledge of their circumstances. While sitting in Congress how can they learn the situation of other States? Members of British Parliament return home for the knowledge of the situation of their constituents. He was, however, in favor of biennial elections, as there will be but one session in a year, and all the business not being then done will be left, if the same body cannot meet again.

CHARLES TURNER, Esq. Is for a year, because it is the most proper length of time. If we allow two years, then by some means or other there will be a stretch as long as the new star's revolution.

Mr. DAWES. Montesquieu's opinion applies only to single governments, not to a confederated one.

Gen. BROOKS, of Medford. Montesquieu gives the greatest plaudits to the British government, where elections were never annual. In answer to the objection that biennial elections are novel: But our situation is new—which he states—rising from dependent colonies to independent States. Then reasons from the state of parliaments in Europe.

Gen. SAM. THOMPSON. Argues for frequent reëlections, because if the administration had not been changed last year, we should now be in blood. He was called to order by Dr. Jarvis. After debate, it was moved that he proceed. Then Dr. Spring presented a letter to the Convention from Mr. Gerry. After some debate, a motion was made to adjourn, which passed in the affirmative.

3 o'CLOCK, P. M.

Gen. THOMPSON. Was in favor of annual elections, for the end of government is to please the people, who can please them-

selves by annual elections, and the people are quieted by a new election, the last year. It is said the elected will want time to learn, but he hopes the people will not send men who are unlearned; it is the duty of a representative to know the interests of his own constituents, and then to determine, by comparing their situation with the state of the nation. Also, he objects that the representatives pay themselves; compares it to the king's government and the judges being paid by the king; here they pay themselves.

Mr. GORE. We must be careful in taking the opinion of writers on the subject of government. Opinions deduced from the state of ancient governments do not apply. They did not check their governments by having different branches, with negatives. He then observes on the nature of British parliaments, and applies his observations in favor of biennial elections; was in favor of frequent elections, but the true rule is to give them time to inform themselves, and not too much time to feel independent of the electors.

Mr. KING. The rule is, that the elected should have time enough to inform themselves, and not so much time as will make them independent of the electors. He states the rise of parliaments upon the feudal system. Elections longer than annual have been thought of by Massachusetts; instanced in the confederation of the united New England colony. Remarks on Heath's notion, that any man chosen a representative has knowledge enough. Thought there was no danger of loss of liberty from biennial elections.

Hon. CHARLES TURNER charges King with ridiculing him about the planets, and resents it.

Mr. KING explains himself. He did not mean to ridicule any argument, and had a profound opinion for the gentleman.

Hon. Mr. DANA. From annual elections, States, in Congress, have frequently been deprived of their votes for want of the delegates receiving their commissions.

Hon. ABRAM WHITE says, our delegates being chosen in June, there is time enough.

Hon. Mr. DANA. He applies to the southern States.

Hon. Mr. GORHAM says, Congress is not represented at present for the same reason; observes, as Congress will have but one

session a year, and our General Court have two, biennial elections for Congress will not be longer than annual elections for this State.

Mr. NASSON. If members will not engage in business for fear of not finishing, then no man would undertake any business lest he should die and leave it unfinished to his executors or administrators.

Mr. GORHAM, in reply, referred to the situation of our General Court the last session, when the whole session was employed in collecting and arranging materials for the next session.

Mr. CARNES reads part of a letter from Mr. Otis, that Congress was now not sitting, as only five States were represented.

Hon. JOB SPRAGUE. The advantages of biennial elections have been sufficiently demonstrated. If any still object, it is incumbent on them to prove the inconveniences.

Hon. JNO. TAYLOR. If one session in a year is not sufficient to originate and complete the business, then let them have two sessions, or sit all the year, if necessary.

Capt. SOUTHWORTH, from Stoughton. He thought the advantages of a biennial election had been sufficiently stated; his difficulty was, whether the fourth section did not render the right of biennial elections insecure.

Adjourned to to-morrow.

JANUARY 16, 1788, A. M.

Voted to pass to the next paragraph.

Moved to reconsider the vote, and debate thereon, but it did not prevail. The next paragraph was read, viz.: "No person shall be a representative, &c., in which he shall be chosen."

Mr. DENCH observed that he wished to add something on the paragraph last debated, and asked leave, and it was granted. His difficulty was, that no provision was made to qualify the election but by the intervention of the State legislatures, and still under the control of the Congress, and so the rights of election are insecure.

Mr. GORHAM cannot see how Mr. Dench's objection applies to

biennial elections, for if biennial elections are insecure, so would annual elections, or elections for any shorter time, be.

That the practice of the several States, in conducting elections, is various, and the legislature of each State will devise the best possible way for itself.

That the age of twenty-five was necessary, that the man might be old enough to understand public business, and a citizenship of seven years is necessary to give his electors evidence of his knowledge and attachment to their interests.

Hon. Mr. WHITE. Though the legislature may devise and ordain the manner of election, and Congress can and will control it, and so we shall be slaves to the southern States.

Mr. GORHAM said, he did not mean to consider the effect of the revising power of Congress; it was time enough to consider that when we come to it.

Mr. PIERCE, of Partridgefield, said he had no objection to the qualifications in the article under debate, but he wanted to be satisfied why there was no qualification in point of property.

Mr. KING said it was necessary to show the certainty of the people's exercising the right of election. It is clearly certain and positive in the paragraph last under debate, and the question is, whether it is rendered insecure by the fourth section.

Now, that does not render it insecure; for 1. Time of election does not mean the term for which the representatives are chosen; 2. Nor the place where elections are held; nor 3. The manner of holding elections. Therefore the controlling power of Congress does not extend to altering biennial elections. The legislatures of the several States shall prescribe in these cases; it is their duty. But the difficulty is, why should Congress have those powers? For the same reasons that the General Court have power to compel every town to send representatives; otherwise the electors may be negligent, and the liberties of the people may be utterly destroyed, without the vigilance and coercion of government.

Dr. TAYLOR. My difficulty is, Congress may make such regulations as to deprive the people of the right of electing. I make no difficulty as to the time, but as to the place; Congress may fix the place in Berkshire or Lincoln, where the people cannot attend.

Hon. Mr. SEDGWICK. We are to consider in what terms the clauses are expressed. The first clause is in the affirmative and positive, and the second clause extends only to the *when*, *where* and *how*, and not to the term of election. Dr. Taylor's objection supposes the power will be used to the worst possible purposes; if we are to suppose that, we had better dissolve all governments, and live as the savages. But in forming a government, we must grant the necessary powers, and not contemplate only the possible abuse of power; otherwise there is the same objection to our own government—they may call every man into the field, take away all our money, erect courts in every street, give judges £10,000 a year, unite all the counties into one, and make Penobscot a shire town. But to suppose this, is to suppose the legislature devils, or worse. A sufficient check against the wanton abuse of power is the spirit of the people, as in the encroachments of Great Britain; but where there is a common interest we are not to presume an abuse of power.

But this controlling power is necessary to preserve the general government. Those who wish this power alone existed in the several legislatures, are influenced because it would be safe from the common interest. The same reason applies to the general legislature. Attend to the conduct of Rhode Island last winter; without any reason, they recalled their delegate and refused to send any. The same may happen under the general government.

If it should be said that the place may be fixed in Boston, that the mercantile interest may choose their representatives; but if that was the case the country party within twelve miles could come in and out-vote it.

Dr. TAYLOR rises, and asks whether he remembered the time when a corrupt administration kept the General Court moving, to inflame the members.

Mr. SEDGWICK replies: Yes; and that the effect was a greater firmness in opposition to the administration.

Gov. BOWDOIN observes that there is a positive injunction upon the several legislatures to determine the time, place and manner, and it is fit; otherwise, as in the case of Rhode Island, the Union may be dissolved. The controlling power in Congress is necessary, from the different manner in which the elections

are made in the different States, and to prevent partiality and indirect and improper conduct in the several States.

Gen. THOMPSON. We have now got forward to the fourth paragraph, and we had as good thump it about and see what is in it. I do not know the hearts of men, but I believe men are as wicked now as ever. I should make no difficulty to give Congress this power, in case a State should refuse; but now Congress may order us to go to South Carolina, to choose where they choose, over head and heels; in which case we shall not be safe. But as I shall have a further opportunity to thump it, I will now sit down. N. B. He observed that there was no danger from the legislature, but great danger from Congress.

Hon. Mr. ADAMS. We have gone from the point in debate. We are now on the fourth section, which is a very different subject, and spoke to order.

Hon. Mr. SEDGWICK spoke to order, and exculpated himself.

Adjourned.

3 o'CLOCK, P. M.

Mr. PIERCE, of Partridgefield. He objects, 1. That Congress may declare that he that has the most votes shall be chosen, not he who has a majority of votes. 2. That Congress may order Boston to be the place of election, and by that means may influence elections. Congress may do so, and may have sufficient motives so to do. 3. A bankrupt may be chosen.

Col. PORTER. If a State should require a majority of the votes in the State it ought to be altered, and there is no reason to presume a majority of the people would choose a bankrupt.

Mr. BISHOP. He should have no objection to the controlling power of Congress in case the States refuse to make the necessary regulations—but to give Congress this controlling power when a State does not refuse, is to give up the liberties of the people.

Gov. BOWDOIN. As to Rhode Island, he has not the records of Rhode Island, but has always so understood it, and the printed accounts of their journals, as published in the newspapers, confirm it.

Mr. KING affirms that the State of Rhode Island did recall their delegates, as appears by the journals of Congress.

Mr. BISHOP does not believe it.

Mr. GORHAM affirms as Mr. King did.

Mr. BISHOP says he has been informed to the contrary.

Col. PORTER. If Mr. Bishop will not believe it, it is——

Mr. BISHOP now believes it, and repeats his former objections to the Constitution.

Hon. Mr. STRONG. It is clear that the Federal Constitution could not provide a general regulation for elections, as the practice of different States will be different. There were, then, but two ways of obtaining this regulation—either by Congress, or the State legislatures. But it will not be safe to trust it wholly with the States; the people will be remiss in exercising their privileges, and a disunion may be the consequence.

Mr. BISHOP admits that Congress may have this power in case the States do not make proper regulations; if this was the case, still Congress must judge of the regulations, which comes to the same thing.

Mr. BISHOP says his objection is against the unlimited power to which he can see no end.

Mr. CABOT, of Beverly. As to the propriety of biennial elections he would add one thing—the necessity of continuing long enough to form a system. But as to the fourth section. The representative branch is the popular branch, they are designed to balance and check the Federal Senate.

Mr. ADAMS, of Ashley.

Mr. PARSONS.

Mr. DALTON.

Mr. JONES.

Dr. JARVIS.[22]

JANUARY 17, 1788, A. M.

Hon. Mr. TURNER objects to the fourth section. He has no objection to a coercive power in Congress to make the people attend to their privileges, but he does not see any such power vested in Congress: by this section, Congress may fix on so

[22] [These gentlemen appear from the Minutes to have taken part in the debate; but their names only were recorded.]

inconvenient a place as to influence the situation in favor of creatures of Congress, and no reason can be given why the place of election should be altered by Congress but for that purpose, and that it be to influence the election in favor of the members then in Congress, or their friends; and therefore he considers it as a system to perpetuate the members of Congress in their places; for the power can never be exercised unexceptionably in any case whatever; and he thinks a rotation necessary in the lower house to guard against the deep arts of popular men; has well grounded fears that some of the rulers would be bad men—we must therefore guard against them; that paper money and privateering has introduced corruption and immorality, and a disregard to private and public justice. In consequence of that corruption, it requires a more energetic Federal government; but the rulers will be taken out of this corrupt mass. *Like prince, like people*, and promotion will increase the corruption. Every possible guard must be devised, therefore, against rulers; therefore, Congress must not have the power in the fourth section, because they cannot use it without abusing it. Let us not act like the people of England at the Restoration, who, from their sufferings under anarchy, run mad with loyalty. He has a strong sense of the difficulties of this country, arising from the want of an energetic Federal government, but is not disposed, for that cause, to adopt any government without examination.

Hon. Mr. SUMNER. Our situation is very alarming. If this Constitution should be rejected from trivial or ill founded objections. The objection to the fourth section is of this kind. The delegation of the powers in this section is not dangerous to the people; it is possible it may be abused, but it is exceedingly improbable. It may be necessary that Congress may regulate the time, for public convenience, and the manner, for uniformity. As to the place, if the Congress should enact an inconvenient place, it must be but temporary, for the people will certainly choose members to redress any grievance they feel. But cases may arise when Congress ought to have this power, as when by foreign force half a State may be possessed by an enemy, as in South Carolina.

Mr. WEDGERY is willing that the general government should

have power to support itself, but shall they have a general power? The discretionary power is more safely trusted in the State legislature than in Congress. Mr. King said the same discretionary power is trusted in by the government over towns. It is not true; they can only fine. Dr. Jarvis has raised an argument because every thirty thousand shall have a member. It is not true. This power in the fourth section is therefore unlimited, and to trust this power in Congress is more dangerous than to trust the State; is contented with this power in Congress, when States refuse or neglect, but no further.

Rev. Mr. WEST. To argue against the grant of powers because they may be abused, is an argument against all governments—against our own; and an argument which proves too much, proves nothing. Those who object ought to show that it is probable Congress will abuse the power. It has been said that Congress may appoint a place out of the State, but the words of the article are against it, for the place is to be appointed in this place. It is not presumable Congress would appoint an improper place. Also sorry to see obstinacy, party spirit and prejudice. We are not to reject the Constitution merely because we have some objections; we ought to determine, upon comparing the advantages of adopting or rejecting.

Gen. THOMPSON is sensible all powers may be abused, but this power can only be abused, and not used to any good; the place may be appointed out of the State; then tells the story of David and Absalom; objects, because after a certain age, when people grow old, they are not disqualified.

Col. SMITH. Observes on the guarantee of a republican form of government.

Dr. HOLTON. Observes on the supposition that the present delegates are not as much the representatives of the people as they were formerly. All agree the present Confederation is defective. I will confine myself to state facts. When this Convention has laid open to them every defect in the old government, they will determine better. He is in distress about our present situation, but we should take care not to make bad worse. If we agree to have this consolidated form, he thinks the power in the fourth section proper, and necessary to give energy. We are to consider whether the government can be

carried into effect without war; it is *imperium in imperio*. Questions between the general government and each State will soon arise, and then force will settle it.

Dr. SNOW. The question is, if Congress have this power, whether it will not be more dangerous than beneficial. Most of the objections have been considered. There will be some good men and some bad men in the government. The bad men will take off their heads if they are traitors. I think Congress must have great powers, or we are ruined; and we must be careful whom we choose. Our character abroad is infamous, like a negro in a rich family. He is for the powers in the fourth section to be trusted in Congress, and there is no danger of abuse, because it must be exerted by both branches, who will be opposed to each other.

Gen. LINCOLN thinks the danger of trusting Congress not proved by Mr. Turner; for, admitting the Federal representatives may appoint a place, to continue themselves in place, yet ambitious men in General Court may by this influence appoint an improper place to obtain an election. Dr. Holton observed that he had no objection to this power, if this form of government is to be adopted. That is a general question, and cannot now be considered.

GILBERT DENCH. The difficulty he had yesterday is not altogether removed. The argument of Mr. Cabot was so sweet, that on any other occasion he should be convinced, but in this case he had not such a relish as to satisfy him, because Congress may make these regulations, whether the States neglect it or not. Was it my own personal right alone concerned, I should make no difficulty; but it concerns the unborn. What will be the law providing these regulations? The first Congress will probably please their constituents, as far as they can; popular commotions will probably occasion these regulations. Had any Federal government ever such powers?

Rev. Mr. NILES. As to Congress fixing on an inconvenient place, let us suppose the worst. Suppose they fix on the most inconvenient places for election,—it will then be considered as an abuse, and the people will call a Convention and amend the Constitution. What greater security can we wish for?

Hon. Mr. DANA proposes not to go into the debate, but to

suggest one idea. It seems agreed there would be no objection if Congress only had this power when the State neglected or refused; and it has been asked, what necessity there can be for this power in any other case. I will state a case. A State may make provision, but it may not be agreeable to the spirit of the Federal Constitution. It is not enough that a State sends its complement of representatives, but all the people ought to have equal influence, and the State regulation is unequal and unjust. Suppose a State should proportion the representatives according to corporations, unequal among themselves. Though our Constitution will restrain our legislature, yet our legislature is not bound to incorporate new places, and give the people the right of election; or, when our Constitution is revised, the present restraint may be removed. There may, therefore, be a case put, when Congress ought to have this power, when a State may not neglect. Power may be abused, but the spirit of the people is the surest and a certain defence.

Dr. TAYLOR. Arguments drawn from the amendment of the proposed Constitution, have no foundation. It will be almost impossible to amend it; and reasons from the manner in which amendments are to be made, have also no foundation. We have not in our Constitution an equal representation.

Adjourned to 3 o'clock, P. M.

3 o'CLOCK, P. M.

Hon. Mr. WHITE objects to the qualifications, as no value in property is required; for I may have three sons, who may have spent two or three thousand dollars that I have given them, and then get into Congress and serve the States in the same manner.

Mr. PIERCE says he has the same objection, for he should not choose to trust any man with his concerns who had no property; and why should we trust a man in public matters?

Hon. Mr. SEDGWICK says, this objection is democratic; the people may choose at large, and no man without property will ever be chosen, unless he is a man of great talents and virtues.

Gen. THOMPSON thinks the objection of no weight, as the poor man has generally as much integrity as a rich man.

Hon. Mr. KING thinks property no mark of integrity or talents. Those who have ruined the liberties of their country,

were generally rich. If a certain property was required, still it could not be ascertained whether the elected was qualified in point of property or not. If property was required, the different States would have different ideas on the subject. The old Confederation requires no property. As to the exclusion of men of advanced years, there is a difficulty; for in the southern States an old man, is, in the eastern States a man of vigor and maturity of judgment.

Mr. JONES, of Bristol. *I could not hear him.*

Mr. BACKUS. In Connecticut there is no exclusion on account of age, and no inconvenience has resulted from it.

Mr. HUBBARD. In Connecticut no qualification in point of property is required of the electors, which is the reason why the elected there have no qualifications either as to property or age. Here we have qualifications for electors, therefore there should be for the elected.

Hon. Mr. DANA. If we consider the impossibility of ascertaining the quantum of property, we shall be satisfied. Beside, why should we bridle the people in their elections? and in framing the Constitution the Convention have acted wisely.

Mr. DENCH thinks the objection of no weight, from the great number of electors every representative should have.

Mr. THOMAS, of Middleborough, thinks they should have property, otherwise they cannot feel the burdens they lay on the people.

Hon. Mr. DANA. The people will take care of that. If a man has not property they will not choose him, unless he has qualifications that can dispense with his poverty.

Mr. WEDGERY thinks there can be no weight in the objection. Rich men will most commonly be the object of their choice.

Ordered to proceed to the next paragraph, viz.: "Representatives and direct taxes, &c., &c.—Georgia three."

Hon. Mr. KING. The principle on which this paragraph is founded is, that taxation and representation should go hand in hand. By the Confederation, the apportionment is upon surveyed land, the buildings and improvements. The rule could never be assessed. A new rule has been proposed by Congress, similar to the present rule, which has been adopted by eleven States—all but New Hampshire and Rhode Island.

Mr. WEDGERY objects to the rule, as apprentices are not freemen, but blunders about it.

Mr. KING explains——

Mr. SHURTLEFF. His difficulty is, our negroes are free, but those of other States are not. But the number of representatives first chosen——

Gen. THOMPSON. The rule is unequal; as we have more children than the luxurious inhabitants of the southern States. Congress will have no impost or excise, but lay the whole tax on polls. We live longer than they live. We live to one hundred; they to forty.

Dr. TAYLOR. If eleven States have agreed to the rule of polls, twelve have agreed to alter the Confederation. So the agreement of eleven States is no reason. But I object to another part; the number of representatives shall not exceed one to thirty thousand. The representation will not be numerous enough. It may be objected, that if a larger number, it would be unwieldy—but it is not unwieldy. It may not be increased, it may be said, and that we may increase the expense. But the expense will be trifling, compared to the advantage to let every class be represented. The additional expense is but three pence per poll. Supposed twelve instead of eight, at forty shillings per day. The smallest representation that ever was. It is trifling.

Mr. WEDGERY wants to know whether all white infants are free persons? If they are, we are over-taxed.

Hon. Mr. KING. All persons born free are counted among free persons, to which three-fifths of all persons born or imported slaves, make the census.

Mr. WEDGERY. If Mr. King is right, then we shall pay one-quarter of the debt.

Mr. GORHAM. Mr. Wedgery is totally in the wrong. It will lessen our old proportion nearly one-seventh. As eleven States have agreed to this rule, among which was Massachusetts, it is a rule most likely to be adopted. As to representation mentioned——

Col. FULLER. The arguments against the representation are groundless. As the rule of proportion is by numbers, five slaves to three freemen is but equal, for slaves are but chattels.

Hon. Mr. DANA. If this government was a consolidation and not a confederation, he should then think the number too small. But as it is Federal, and we have our own governments to support, the expense would have been too great. We can send seven on the old plan, but have only sent four or five, which proves the sense of the people not to have a large representation. The Constitution provides for increasing the representatives. 'Tis true Congress are not bound to increase representation as numbers increase, nor should they; for, from the rapidity of population, the representation would be enormous. We can instruct our representatives; they will not dare to disobey them. The old rule of apportionment by lands was against this State. Our lands are worth more by the acre. Lands cultivated by slaves are not worth as much as lands cultivated by freemen. Slaves are their masters' moneys, and at their risk, and it would be unjust to tax a slave as much as a freeman. If we think there should be a difference, the only question would be, what difference. The States have agreed, in Convention, on materials, which we have not. The southern States have not half the value of buildings we have, arising from the climate and manner of living.

Hon. Mr. WHITE. If we are to be taxed by numbers, it will ruin all the poor people; but I do not understand the matter, and will wait to hear it explained.

Mr. SHURTLEFF wants to know whether five smart negro slaves are to be equal to three of our children?

Mr. NASSON thinks both sides should be stated. Mr. King says five of their infant slaves are equal to three of our governors; but three of our infants are equal to five of their healthy strong slaves. Besides, though our climates make us build houses, yet we have to work all summer for winter. Also, the representation is unequal between us and New Hampshire; also, our negroes are all free, and theirs are slaves.

Mr. RANDAL. Lands in the southern States are as good as ours; if not better. It produces every thing. Mr. Dana is mistaken; but as to the slaves, he is about right. The laboring part of the free men in the southern States can live upon two days' work, as easily as we can upon six. They can work all winter, we cannot.

JANUARY 18, 1788.

Mr. DALTON is in favor of the method of fixing the census; it is much in our favor.

Mr. COOLEY asks how the direct [tax] is to be apportioned among the inhabitants of any State?

Gen. BROOKS, of Lincoln. No rule is fixed in the Constitution; that is a legislative act, for Congress to determine.

Mr. RANDAL wants to know how far Mr. Dalton has travelled. Denies Mr. Dalton's facts.

Dr. HOLTON rises to give light; mentions the old rule of the census; found impracticable; compelled to have recourse to numbers, after long debate. As to the rule of representing a State's proportion, Congress must hereafter determine the matter, and make an internal tax, which is an *imperium in imperio;* it will bring on a war. I think the new rule is not in our favor, but am in favor of it, for it is all the rule we can get.

Dr. DAVIS wants to know of Dr. Holton, why our proportion has been lessened?

Dr. HOLTON does not recollect, but Massachusetts always insisted we stood too high; but the reduction was on no fixed principle.

SAM. THOMPSON. What States, in the debate, opposed the rule of numbers? Asks Dr. Holton.

Dr. HOLTON does not recollect. He was against the rule of numbers, because the southern States had more land and less numbers, than the eastern.

Hon. Mr. DANA. Answers Dr. Davis's question, as it lays in his mind. The reason why our taxes were higher during the war than since, was because we were free from the public enemy, and money must be obtained where it could be had. Since the war, other States have been recovering.

Mr. DAWES observes that Dr. Holton likes this paragraph, if the Constitution prevails. Mr. Randal need no longer lament the want of abilities and eloquence on his side, since Dr. Holton has spoken. But to the question. Though slaves are reckoned five equal to three now, yet in a few years slavery must be abolished, and in the mean time, slaves may be taxed on importation, sixty shillings per head. Slavery will not die of an

apoplexy, but of a consumption. As to direct taxation, Congress now have powers to make requisitions, but not to enforce them. Considers the revenue, as it relates to borrowing money abroad. Congress may never exercise direct taxes. Lands are not a proper rule of census; numbers are a better rule.

Mr. RANDAL. Sorry to hear it said that after 1808 negroes would be free. If a southern man heard it, he would call us pumpkins.

Mr. WEDGERY objects to Mr. Dana's description of the southern States. Their land is better than ours.

Mr. DANA says he never compared the value of the eastern or southern lands; he compared only the mode of cultivation.

Mr. WEDGERY says if this rule is for an equal poll tax, he has no objection. But for a rule of apportionment, it is unjust, southern land being better than ours. In Virginia, one thousand acres has forty-eight polls; in Massachusetts, a family of six, to fifty acres, makes one hundred and twenty polls to the one thousand polls [acres?]. In legislation, one southern man with sixty slaves, will have as much influence as thirty-seven freemen in the eastern States.

Mr. STRONG. This mode of census is not new. Our General Court have considered it, and the General Court have agreed. The southern States have their inconveniences; none but negroes can work there; the buildings are worth nothing. When the delegates were apportioned, forty thousand was the number. Massachusetts had eight, and a fraction; New Hampshire two, and a large fraction. New Hampshire was allowed three; Georgia three, &c. Representation is large enough, because no private local interests are concerned. Very soon, as the country increases, it will be larger. He considered the increasing expense.

Mr. WEDGERY asks whether the poverty of our lands was considered?

Mr. SEDGWICK.

Mr. RANDAL talks a great deal, and says, as he sits down, that he has done better than he expected.

Col. PORTER.

Mr. RANDAL.

Col. PORTER.

Mr. ———, of Kittery, spoke against the slave trade. We shall all suffer for joining with them, when they allow the slave trade.

Mr. CABOT asks the gentleman from Sharon, whether, in his five hundred miles travel, he saw five thousand people who live as well as five thousand people of the lowest sort here. As to the slave trade, the southern States have the slave trade, and are sovereign States. This Constitution is the best way to get rid of it.

Mr. RANDAL says he believes he has, but is not certain. If they do not, it is their own fault.

Mr. NASSON. Southern States are not poor.

Gen. THOMPSON. As to age—slavery—religion.

Adjourned to 3 o'clock.

3 o'CLOCK, P. M.

Mr. GORE spoke upon the rule of census, upon the number of representatives.

Mr. PARSONS.

Dr. TAYLOR.

Mr. JONES, of Boston.

Mr. COOLEY asks how the quota is to be apportioned upon the inhabitants of the State.

Mr. KING. Perhaps Congress may never exercise this power. They must first demand it of the State, and if they will not assess and pay it, then Congress will assess and collect it, and it is to be presumed that Congress will adopt the usual rule in a State.

Mr. SHURTLEFF. He now understands it.

Hon. Mr. DANA. The question now seems to be, whether Congress will ever have the necessity of levying direct taxes—an attack of one State is an attack upon all—guards against the prejudice of education—the advocates for the Constitution are the friends of the people—high Whigs—they early braved the common danger. The nation should have power to avail itself of all the national resources. There is no danger—New England will have a sufficient influence to preserve itself. No standing army, because in no sudden danger.

Mr. WEDGERY. The question is, how that is to be appor-

tioned? Merchants in Congress will oppose imposts, and have direct taxation on polls.

DENCH. He is satisfied.

Maj. FULLER is for direct taxes in time of war only. Georgia has too many representatives. Remove these doubts, and I am for the Constitution.

Hon. Mr. WHITE has difficulty about Georgia, and two or three States at the southward.

Mr. RANDAL moves Mr. Gerry may be asked to satisfy Major Fuller's difficulty.

Mr. WEDGERY objects, and moves that a time may be assigned to ask questions, and it is seconded; but the motion is withdrawn, and Mr. Randal's motion prevailed, to ask Mr. Gerry the reasons for the requisition.

SATURDAY, January 19, 1788.

Proceeded to the next paragraph—no debate. To the next—no debate. To the next—the Senate—

Mr. COOLEY. As it has been proved that the biennial elections are better than annual, so sexennial are better; therefore, we had better proceed.

Hon. Mr. SINGLETARY is against the Senate being chosen for six years—they may make themselves perpetual—will move their families there—have high wages—no religion is necessary—we may have an atheist or a pagan.

Dr. DAVIS. Mr. Singletary has not reverted to the rotation. There will probably be but one session in a year, and there is no reason to suppose senators for so short a time will carry their families with them.

Mr. SHUBTLEFF. The rotation is only in the first choice; afterwards there is no rotation.

Dr. TAYLOR. The rotation is a shadow and not a substance, and will be no security for the people. There will be more than one session; probably they will be there all the time.

Mr. DAWES. The senators can never feel independent; every two years one-third will come fresh from the people. They

ought to have a longer tenure than the representatives, as a balance; and their business being more difficult, they should have more time to inform themselves.

Gen. THOMPSON is against the power of the Senate, as each State, however small, has as much influence as a great State.

Mr. SINGLETARY repeats his old objections, and wishes to have it discussed fully.

Mr. COOLEY is against the present mode of arguing. We should confine ourselves to mere inquiry and information, and not go so deep into the merits of the several paragraphs.

Gen. BROOKS, of Medford. His object is to grant the necessary powers for the benefit of the people, and then to provide suitable checks; that is the case here. 1. The choice by the legislatures. 2. They feel all the inconveniences they lay on others. 3. They can do nothing without the consent of the representatives, who will always watch over them, and impeach them if they behave amiss.

Mr. WEDGERY. They are only answerable to their constituents, by not being rechosen at the end of six years.

Mr. Gerry's answer, in writing, produced and filed—respecting Georgia having three representatives.

Mr. KING will give the answer, which he does at large. The estimate by which the requisitions are made, was made in 1782; no alteration since. Georgia has great additions and emigration, and is now in an Indian war. Connecticut and New Hampshire have paid nothing. If I was for it now, it is improper, till we are more united.

Mr. DAWES reads resolves of Congress to support Mr. King's statements.

Mr. DALTON. All the difficulties Gen. Thompson has made, show the necessity of adopting this government, to do us justice.

Hon. Mr. DANA says the reason why the small States have the same weight in the Senate, is because the Senate represents the sovereignty. The large gain by having the popular branch introduced.

Hon. Mr. STRONG. There were large debates on this subject in the Convention. The Convention would have broke up if it had not been agreed to allow an equal representation in the

Senate. It was an accommodation, reported by a Committee, of which Mr. Gerry was one.

Mr. JONES, of Bristol, objects to length of time for which the Senate are chosen. Is for their being chosen annually. If they behave well, they may be rechosen, otherwise they ought not. Senators will now carry their families with them to the seat of government, and forget their own States. We had not yet asked advice of God about it. Should have had a fast before. He moved for one in the house; he was not seconded. We have hurried too much, and the election of delegates to this Convention, was too soon. We first must adore God.

Mr. AMES. Senate not chosen for too long a time. Consolidation not proper—country too large for that purpose. We must guard against the consolidation of the States—representation must therefore be equal among the States in the Union who represent the sovereignty. They should have a longer tenure than the representatives—their business is more important—they negotiate with foreign powers—and every two years one-third of the Senate will return to the people.

Mr. SHURTLEFF. The Convention says they aimed at consolidating the *Union*.

Mr. PARSONS. The distinction is between consolidation of the States, and a consolidation of the Union.

Mr. JONES, of Bristol, is still for annual elections—great danger from a longer time.

Mr. KING. The average length of time is but four years, for every time one-third is chosen, one-third will vacate in two years, and one-third in four years. As to their forgetting their States, the legislature will instruct them from time to time. No senator will dare to disobey—necessary they have time to inquire into the character of men, as they advise to the appointment of officers, and negotiate with foreign States.

Dr. TAYLOR. Mr. King's object is to show that the election of senators is not sexennial, and that the States have a greater check now than in the old Confederation. But they are always chosen for six years, and the check under the new Constitution is not so great—they are chosen annually—a rotation—and are liable to be recalled.

Mr. COOLEY. Experience teaches us that rulers should be

under restraint. Congress have great powers—sometimes a majority of a quorum is required—sometimes two-thirds present, as in treaties.

Gen. BROOKS, of Lincoln, denies the fact.

Mr. REED moves Mr. Gerry may be asked about the matter. Then Mr. Gerry said he was putting in writing a state of facts upon this matter.

Adjourned.

MONDAY, January 21, 1788, A. M.

Mr. PARSONS assigns the reasons why two-thirds of the senators are requisite for convictions.

Mr. AMES, on the fourth section. Assigns two reasons in favor of that section. 1. As the first Congress will be chosen pursuant to State regulations, and therefore equal, if Congress were to fix an unequal place, to influence the choice in favor of one member, it would be opposed by the other members. 2. If we can trust our own legislature, can we trust the legislatures of the other States rather than Congress? This section is not a trap, but a security for the liberties of the people, and introduced to guard them.

Mr. DANA once thought it dangerous and unnecessary; is now convinced to the contrary. 1. The representation is to proceed directly from the people—the people ought to be equally represented, and have equal influence—remarks on Rhode Island—there must be a power——

Mr. COOLEY states any objection unnecessary, because the rights of the people are secured by oath.

Mr. PARSONS.

Dr. TAYLOR.

Mr. PARSONS, in reply.

Mr. KING. Distinct ideas of time, place and manner—pursues Ames's ideas of trusting the legislatures of the other States—corporate representation not the same as by numbers—the present situation of Connecticut—South Carolina—Charleston sends thirty, and given districts send given numbers of rep-

resentatives, without regard to the number of electors—the controlling power, therefore, is necessary.

Adjourned.

3 o'CLOCK, P. M.

Mr. PARSONS gives the reasons why two-thirds are necessary to expulsion.

Dr. TAYLOR objects. As to publishing journal from time to time, is uncertain; it means any thing or nothing.

Mr. KING says, the phrase must be determined according to the subject matter to which it is applied—from session to session.

Mr. WEDGERY. He has no doubt as to the words "'from time to time," but objects as to the clause of secrecy—each house may think it proper to keep every thing secret.

Mr. GORHAM. As to secrecy, the interest of the State requires, many times, secrecy. No other government ever required in its Constitution that the journals should be published. In cases of treaties, secrecy is necessary.

Dr. TAYLOR. His only objection is, as to the time.

Rev. Mr. PERLEY. Alarms of Lexington—God raised up Washington, a better man than General Thompson. Should Washington have published his secret council to his armies, he could not have defied Gen. Howe, &c.

Dr. TAYLOR, to the sixth section. Under the old Confederation, each State paid its own delegates, and no corruption; is not for an alteration.

Col. PORTER. There has been complaint. Rhode Island would pay their delegates in paper money—some States have not sent because they had not money—equal, it should be a common charge—this Convention is so supported.

Mr. SEDGWICK. In favor of the section—the practice in every State.

Mr. KING. If the section does not take place the people may be deprived of privileges, by the legislatures refusing to make provision.

Paragraph, exclusion from office.

Mr. GORHAM. To take away all inducement to ill-administration, the exclusion was provided.

Mr. PARSONS added, that if a member was to resign, he could

not take a place until the time for which he was elected was expired.

Section seventh—no debate.

Section eighth, first paragraph—for laying duty, &c.

Gen. BROOKS, of Lincoln. Has doubts about the clause of the general warfare [welfare]—whether there should not have been some limitation.

Gen. THOMPSON seems to think nobody now understands it.

Mr. KING. The present clause the most important. We have already considered the organization of the legislature, and now come to powers to be vested in it. This Constitution is to be formed by the people, the old Confederation by the States—the old Confederation radically defective as to raising money. In Holland the several provinces never advanced the quota, though strictly bound—Holland, by force, compelled one of the states to pay its quota—to relieve the state, they used to demand double of what they wanted, and get what they could—Holland advanced almost the whole, and having but one vote, could never get the accounts settled. Considers the conduct of the several American States during the late war. Nobody will object to the impost and excise, but to direct taxation.

Hon. Mr. WHITE. The other States will always out-vote us. As to Holland, they are already got into Lordships—no collecting the money but by the point of the sword—that is the design of this Constitution, after they have built the forts and got the ten miles square.

Mr. DAWES. The reason of giving this power is to render the sword unnecessary, for without this power Congress cannot compel a State to pay, without an army—perhaps Congress may never have the necessity, as they now have imposts and excises. But Congress will not raise direct taxes but for necessity. They will be chosen by the people, and will feel as the people feel, and therefore will not abuse their power—necessary that Congress should have the power of imposts and excises—that they encourage agriculture by checking the importation and consumption of foreign produce—necessity of Congress having the regulation of commerce—talks about agriculture and manufactures—population from migration—convenient places for mills for manufacturing. But we cannot encourage

manufactures until Congress have these powers—when they have these powers, Congress will have but little occasion for direct taxation—we may have war, and want money—to collect it by requisition is nugatory—without an army—Congress will first demand it, and each State may raise it in such a way as they like best.

Mr. BODMAN. Objects to direct taxation. Congress should have some powers, but it is difficult to draw the line, but it ought to be drawn between the sovereignty of general government and of each State. Now, the sovereignty of this State is given up, as the general government may prevent our collecting any taxes. Now if the power had been conditional, if a State refused, he should have no objection. Now, Congress may prevent each State from supporting its own government.

Mr. SEDGWICK. The same objection applies as between a State and its towns—states the necessity of Congress having this power.

Mr. SINGLETARY. The power is unlimited in Congress—he objects against it—a new case—as much power as was ever given to a despotic prince—will destroy all power in this of raising taxes, and we have nothing left—the only security is, we may have an honest man, but we may not have—we may have an atheist, pagan, Mahommedan—must take care of posterity—few nations enjoy the liberty of Englishmen. Is for giving up some power, but not every thing—no bill of rights—civil and sacred privileges will all go.

Col. FULLER.

Gen. THOMPSON. He would not adopt the Constitution if it was perfect, till he saw what our sister States will do. Massachusetts being a leading State, ought to stand by. We send delegates to Convention to amend, and not make a new one. Only two of our delegates signed it—overpowered by Pennsylvania delegates. This Constitution will not help our trade—if the other States who have not paid, will not pay, we must make them by fair means—better draw than drive—we must support the old Confederation—if only nine accept, we cannot touch the other four—if we attempt to force them, we shall be torn to pieces, for foreign States will help them. The Constitution is in doubtful terms; it can't be understood. Union is necessary; division will destroy us.

Maj. KINSLEY. Power is not dangerous, if people have proper checks—checks were proper under the old Confederation—we have them not under the new. Under the old Confederation, the delegates were our servants; now they are our masters, and we have no control over any usurpation of theirs—they have all our money, a standing army, a Federal town. Tells the story of the Decemviri, but mistakes it. The British Parliament first altered from annual to triennial, then to septennial—people uneasy under it—every session an exertion is made to repeal the septennial bill, but fails through bribery and corruption—our Senate, on an average, for four years—we shall soon see the time when bribery and corruption will be employed to obtain elections—under these circumstances, he is not for trusting these powers with any one body of men.

TUESDAY, January 22, 1788.

Not well enough to take Minutes.

WEDNESDAY, January 23, 1788.

Mr. PIERCE, of Partridgefield. Is [for] a general government—if it will be safe—but if we grant a power to lay direct taxes, Congress will not lay imposts. Congress should not have power to lay direct taxes, but in war. Senate chosen for too long a time—should not be chosen longer than the house, and the house may balance them.

Hon. Mr. VARNUM. The powers of Congress are sufficiently defined in the grant, and no need of a bill of rights—Congress have not all our resources, they have only a concurrent right to taxes and excises, and can make laws only to support a concurrent right, and so no consolidation of States—union would answer no purpose with these powers. Congress may abuse the power, but there is no probability. If Congress have no power to call on a delinquent State, it is an encouragement to delin-

quency. He then considers the conduct of the States lately—Congress must have this power in peace as well as in war—they can make no law but what is necessary for the common good.

Mr. CHOATE. Congress must defend us abroad, and preserve to us peace at home—they must therefore have the means, and the means are delegated by the people to their servants—depriving the delegates of these means, is depriving the people of the means of defence and self-preservation—it would also deprive us of the means of regulating our commerce and protecting our trade—there can be no dividing the supreme power—it must be wholly delegated, or wholly remain with the people, and limits are inconvenient—if direct tax was only when imposts and excises are insufficient, Congress might lay trifling imposts and excises—if it was limited, as to war, it would injure us in hiring, for, the better security we can give, the easier will be the terms—we may lay aside party spirit, as it is a subject of the most importance—our security is in elections at stated times.

Mr. COOLEY asks, if Mr. Choate means that if the people delegate any power, they must delegate all?

Mr. CHOATE replies. He does not mean that if the people grant one kind of power, they must grant all kinds of power, but the kind of power we give, we must give all.

Dr. JARVIS. Mr. Choate's ideas are agreeable to his own, but asks why the French are pointed out as our best friends.

Gen. THOMPSON. Against these powers—not necessary—standing armies are a curse—take care of the militia, they are virtuous men—soldiers in a standing army are the worst men—standing armies are never necessary, witness Burgoyne—we are virtuous, enlightened, rich—raise our own produce—cannot be starved, or taken by Britain—can live without trade—the riches of the country are in a laboring people—Massachusetts will be one of the four, he hopes, and will stand out—Clinton against it before he knew what it was, but had a hint of it—nations will not fall upon us—not true if one nation attacks us, another will defend us—we are in debt—that is an advantage, for they cannot carry the land—do not let us grow too fast, we shall grow out of shape. Now, I have proved that we have liberty,

property and virtue—we cannot influence other nations without they find their account in it. The Constitution is not clear—no bill of rights, which is a bar—the learned are not agreed about it. Some people say we should swallow a bone for the sake of the meat, and then pick the bone out. Now for the section—Britain never authorized the Parliament to pay an army for two years.

Rev. Mr. NILES, of Abington, wishes to know what limits would suit him.

Gen. THOMPSON says he is now tired.

Gov. BOWDOIN. A diversity of opinion is to be expected—when the Revolution commenced, such was the spirit of the people, that requisitions were sufficient, but not now. States have refused, and compelled Congress to increase the public debt by further loans—states the terms of the loans—they must be punctually complied with—Congress will not act like a faction in Rhode Island. Our foreign creditors are able to force payment by reprisal, which will essentially injure this Commonwealth.

Dr. TAYLOR wishes to have the Constitution discussed at large, and not by paragraphs.

Mr. PARSONS.

Adjourned.

3 o'CLOCK, P. M.

A motion was made to consider the Constitution, at large. After debate, the motion was adjourned to ten o'clock, next morning.

Adjourned to 9 o'clock, next morning.

THURSDAY, January 24, 1788.

Some unimportant debates till ten o'clock—then a motion to consider the Constitution, upon the whole, and not by paragraphs. After debate, it was ordered to subside, by a great majority. The eighth section was then read, and some debate.

Adjourned.

3 o'clock, P. M.

Eighth section.

Mr. DENCH. These powers will dissolve the State governments.

Mr. CABOT answered Mr. Dench.

Mr. DENCH replied.

Gen. BROOKS, of Medford, answers Mr. Dench at large, by showing the Federal government cannot exist, but on the existence of the several governments.

Maj. HOSMER wishes to have explained the Federal town.

Mr. STRONG explains it. Congress must have exclusive legislation where they sit, to prevent or punish insults.

Dr. TAYLOR. The district is too large—may contain barracks and stores.

Mr. KING. Words, in their nature and language, are imperfect. The Convention must either enumerate the rights of the general government, or the rights of the State governments—most for the liberties of the States to enumerate the powers of the general government, and all not enumerated still remain to the States—rights of all, therefore, accurately defined, which he illustrates by direct taxes—the power of availing itself of the whole resources, is essential—there is no government without it, except Turkey. Under the new government, the wants of each government will be confined, but the wants of the general government must be unconfined—people suppose they can increase the general government without lessening the State's power—'tis not true. Our State now, is not a sovereign State—we cannot make peace, or war, or treaties—no aristocracy in the new government.

Dr. WILLARD has the thirteenth article of the Confederation read, and the tenth article of the sixth section of ours was read, and observed that we ought to be jealous when our Constitution is in danger.

Mr. KING says, the people at all times have the control of their Constitution.

Dr. WILLARD. Our governments are governments of laws and not of men, and the Constitution cannot be altered but according to the compact.

Mr. JONES, of Boston. The word consolidation has different ideas, as different metals melted into one mass, two twigs tied into one bundle.

Mr. DENCH insists upon it, by consolidation under the Federal government, will dissolve the powers of the States, and render our elections insecure.

Rev. Mr. WEST answered it.

Gen. THOMPSON. Unconstitutional to adopt it—if we do, it will be of no force—our delegates did not keep within the line of their duty.

Mr. GORHAM. The delegates kept within their line—the powers authorized the reporting the Federal Constitution. Some articles of our bill of rights read.

Mr. SEDGWICK. The only question is, what is for the general good and happiness of the people.

Mr. STRONG, (who did not sign,) says, the concurrence of three to sign not necessary—a majority makes a quorum, viz., three; and a majority of the quorum gives the vote of the State—through sickness he was obliged to return home, but had he been there he should have signed it—then shows that the delegates acted within their line—under the words *provisions* and *alterations*, this new Constitution may be reported—but we have nothing to do with it—our business is solely to adopt or reject the Constitution.

Dr. WILLARD charges King with treating some of the members illiberally, as insinuating that some of them listened to out-of-doors whispers.

Mr. KING denies the charge—he only said that if any people did listen to such whispers, they did wrong.

Mr. DALTON observes that Mr. Singletary introduced out-of-door talk, and gave a just foundation for Mr. King's observations.

Gen. BROOKS, of Lincoln. The rights of the general government are distinct from the particular governments, because all rights not given to the general government remain to the States—the word *guaranty* does not imply a gift or grant, but a warrant and defence.

Mr. WEDGERY. Our Constitutions are not our defence—why should Congress guarantee a republican form?—they may, not-

withstanding, unite us into one republican form—every body knows that Congress have no power but what is given them—the question is, what is given them.

Hon. Mr. ADAMS. To guarantee is not to——

Mr. PARSONS, on the guarantee.

Mr. DAWES.

Adjourned.

FRIDAY, January 25, 1788, A. M.

Conversation of the ninth section.

Gen. VARNUM observes on the fourth section, first article, on Turner's and Wedgery's arguments on that section; then observes on the ninth section: powers of regulating trade are necessary for the good of the whole—to encourage our shipping—and then makes a variety of excellent observations.

Mr. CHOATE. Suppose a power of attorney to transact a particular object—the attorney can go no further—if the power was general, and he afterwards gave a new power to a second person, for a particular object, the second power can go no further to control the first, than to the particular object to which it extends. The same reasoning applies to the Constitution.

Mr. SHURTLEFF reads the section where the constitutional laws of Congress are to be paramount to State laws, which he says gives all unlimited powers.

Mr. AMES. If this Constitution will destroy the liberties of the country, we should reject it; but such is the ruin if we reject it, we ought to be sure our liberties are in danger before we reject it. Our liberties cannot be preserved without union—the Confederation is a dead letter—the country teeming with new States—a seminal soil—without union the new States will be opposed to us—surrounded by hostile enemies—Spain and Britain, they injure us, because they despise us. He went on, and made an elegant and pertinent speech.

Gen. THOMPSON. I am for union, and that something must be done, but not adopt this Constitution—I hope we shall reject this—our sister States are divided—other States will follow us,

we should therefore stand by, and not be too hasty. Suppose only nine States adopt it—then four will not adopt it—no foreign States know—thirteen not nine—we should unite, and we can get a new system—send a new Convention—cruel and wicked to alter, but on the terms of the old Confederation, except at the last cast.

Mr. SINGLETARY. I know the principles I formerly acted upon, I act upon the same now—for the liberties, for the liberties of the people—the English claimed all our property, and to do what they please—the lands will bear all the burdens—gentlemen now supporting this Constitution will be in government.

Col. SMITH, of Lanesborough. The two things farmers have to dread, are 1. Anarchy; 2. Tyranny. Anarchy leads to tyranny, and while we are trying and trying for amendments, some tyrant will set up, and the people, to relieve themselves from anarchy [will obey him]. Our security is that the common interest is our common defence.

Mr. PARSONS spoke on ambiguities.

Adjourned.

3 O'CLOCK, P. M.

Mr. AMES called upon gentlemen to show why Congress, under this new Constitution, has more power than under the old Confederation.

Mr. SINGLETARY, in answer, showed the checks were different —annual elections—rotation—recall—in the old, and not in the new.

Mr. WEDGERY. By the new Constitution, Congress can lay no direct tax but on polls, where the poor will pay as much as the rich—objects to representation—thirty thousand men on a sand hill will pay as much as the same numbers in the Garden of Eden—our debt is our safety, as long as we can pay the interest. Mr. Ames appears to be conscience-struck; a lawyer, and conscience-struck!—perhaps it is for the poor paying as much as the rich. States ought not to have an equal representation in the Senate, according to interest—but it is said we could not do better—very pretty—the great must give way to the less—suppose nine adopt and four reject, what will you do? Use the sword? No, we shall be ruined—the four will be jus-

tified, because each State must consent by the old Confederation—some benefit will arise if nine States accept, as it will prevent paper money, and save the States, by endorsing them to a citizen of another State.

Mr. GORHAM. His objection to impost goes to the old Confederation as well as to the new—one State has a provision in its Constitution that there shall be no poll tax.

Mr. COOLEY said, he never had advanced that all direct tax was on the polls.

Mr. JONES, of Boston, shows the advantages, to all classes, from the new Constitution.

Mr. JONES, of Bristol, says, power to regulate the trade abroad is enough.

Col. PORTER. To grant only an impost is to invite enemies to attack us, for shutting up our ports is to destroy our resources.

Col. TAYLOR says, he is now convinced we have no need of granting a direct tax, as the impost is enough for war and peace.

Gen. VARNUM. To say we will not grant a direct tax to Congress, is to say that we will not have the power of a direct tax, for Congress are the people, especially as in war our imposts are destroyed.

Mr. DENCH wishes to go to the next session [section ?].

Mr. KING. If direct taxes can only be collected from polls, a good reason for rejecting the Constitution—but it is not true—the apportionment in the Constitution is only among the States, and not upon the individuals in a State—in the last case, Congress have a discretionary power—as to equal vote of States in the Senate, we could have no union without it.

Mr. PIERCE, of Partridgefield. Powers in Constitution are dangerous; 1. Direct taxes; 2. Duty on imposts include excises, and so a State can, by the tenth section, lay excises.

Mr. SEDGWICK was going to give an answer, but it was said not to be in order, and the ninth section was read.

Mr. DALTON. In favor of first paragraph because we gain a right in time to abolish the slave trade.

Mr. KINSLEY wants to know the reason why vessels from one State to another are not obliged to enter, &c.

Mr. JONES. That no duties should be laid on the exports of a State.

Gen. THOMPSON. It is contrived to enable them to run.

Dr. JARVIS. It is when a vessel bound to one State makes a harbor in another, he is held to pay duties.

Deacon SEVER and Deacon PHILLIPS give the same.

Mr. GORE the same.

Mr. CABOT explains it fully.

Mr. NEAL talks against the slave trade.

Mr. COOLEY asks, whether negro slaves, emigrating into this State, will not be considered as a poll, to increase our ratio of taxes?

Rev. Mr. BACKUS answers Mr. Neal, and shows we have now gained a check which we had not before, and hopes in time we shall stop the slave trade.

Mr. BODMAN says, those born slaves in the southern States may still continue slaves.

Gen. THOMPSON. If the southern States would not give up the right of slavery, then we should not join with them—Washington's character fell fifty per cent. by keeping slaves—it is all a contrivance, and Washington at the head—our delegates overpowered by Washington and others.

Mr. JONES, of Bristol, objects to Article V., because we can't amend this section for twenty years.

MONDAY, January 28, 1788, 3 P. M.

First section, second article—Executive.

Mr. GORHAM. All governments require an executive—this section fixes the mode of appointment—the people at large could not choose—the legislature of Congress could not choose, he would then be their creature——[28]

[28] [Here the Minutes end abruptly.]

ACTION OF THE GENERAL COURT.

[Resolve to print the Address of the Committee appointed by the Convention.]

COMMONWEALTH OF MASSACHUSETTS.

IN SENATE, March 29, 1788.

Whereas, a Convention, chosen by the People of this Commonwealth, by their Resolve of the 7th of February, 1788, appointed a Committee to prepare "An Address to the People, stating the principles of the said Constitution, the various objections which were made against it, the answers they received, and explaining the absolute necessity of adopting some energetic system of Federal government for the preservation of the Union, and that the same be published," and whereas, the said Convention, by their said Resolve, recommended to the General Court their making provision for the publication of the same; be it

Resolved, That Messrs. Adams & Nourse, Printers to the General Court, print the said Address, and lay their accounts before the General Court for allowance and payment.

Sent down for concurrence.

S. ADAMS, *President*.

IN THE HOUSE OF REPRESENTATIVES, March 29, 1788.

Read and non-concurred.

J. WARREN, *Speaker*.

[Extract from the Journal of the House of Representatives.]

SATURDAY, March 29, 1788, 9 o'clock, A. M.

The Hon. L. Thompson brought down a Resolve of Senate of this day, directing the Printers to the General Court to print

the Address of the Committee of the late Convention to the people, agreeably to their Resolution of the 7th of February last—sent down for concurrence.

A motion was made and seconded, that the consideration of the said Resolve be referred to the next session of the General Court, and the question being put, passed in the negative.

The question of concurrence was then put, and passed in the negative also. [24]

[Extract from the Senate Journal]

SATURDAY, March 29, 1788.

Resolve directing the Printers to print the Address of the Convention, sent down for concurrence, came up *non-concurred.*

[24] [We find no report of the discussion upon this question, or of the reasons influencing the House in their action, in the newspapers of the day.]

PUBLIC SENTIMENT OF THE DAY.

[Of the good feeling with which the large minority submitted to the decision of the majority, and of the general enthusiasm with which the harmonious conclusion of the Convention was welcomed by the people, some idea may be formed from the subjoined extracts from the columns of the *Centinel*, of February 9 and 13, 1788:—]

On the ratification being declared, a very large concourse of spectators testified their satisfaction by repeated huzzas; and the whole Convention, having been previously invited, partook, with a number of the respectable citizens, at a decent repast, prepared in the Senate Chamber; where, in mutual congratulations and testimonials of satisfaction, all party ideas were done away, and such a spirit of joy, union and urbanity diffused, as, if continued, must be attended with the most happy consequences through the Commonwealth. The toasts given, were truly conciliatory, and were, we believe, drank with sincerity by every one present. All appeared willing to bury the hatchet of animosity, and to smoke the calumet of union and love.

After this repast, the Convention dissolved. Thus far, the proceedings of the Convention. Now for those of the people.

The citizens of Boston have ever shown themselves advocates for freedom; therefore, when a motion had obtained, one of the greatest objects of which is "to secure the blessings of liberty to themselves and their posterity," they could not resist the strong impulse they must have had, publicly to testify their gratitude for the pleasing event. Nor have they. On the decision being declared, the bells in the several public buildings, communicated the happy intelligence to every part of the town, by a peal, which continued for several hours, and which has been continued with short intervals ever since. The discharge of cannon, and other demonstrations of joy, took place

on Wednesday and Thursday, but it was left to yesterday to produce an exhibition, to which, America has never before witnessed an equal, and which has exceded any thing of the kind Europe can boast of.

The Committee of Tradesmen met on Thursday, and by public advertisements, requested the attendance of the mechanics and artisans of every description, in town, at Faneuil Hall, at 9 o'clock, yesterday, in order to form, and proceed in Grand Procession therefrom, to testify their approbation of the ratification of the Federal Constitution by the Convention of this Commonwealth, the 9th inst., and deputed their Chairman to request their brethren, the husbandmen of the adjacent towns, to join them, who, though the notice was very short, accordingly appeared in town at 9 o'clock; when, the several trades being met, at 11 o'clock, in real GRAND PROCESSION, the whole moved from the hall, and the following was the

ORDER OF THE PROCESSION.

Sixteen Foresters, with axes, and brush scythes.

Music.

A PLOUGH,

drawn by two horses, and two yokes of oxen, with a person holding it, and others clearing away the obstructions.

[The Sons of Freedom venerate the Plough.]

Three Sowers, with baskets strewing grain, and smoking their pipes.

A Brush-Harrow, drawn by a horse.

A large Roller, drawn by a horse and pair of oxen.

Four Reapers, with sickles, &c.

Three Thrashers, with flails.

Four Mowers, with scythes, followed by eighteen Haymakers, with rakes, &c.

Eight Husbandmen, with hoes, spades, and other farming utensils.

A Winnower, with a fan.

A Cart, drawn by a yoke of oxen, with flax-dressers at work, and in working dresses.

A yoke of fat Cattle, with killers, properly equipped.
A Cart, loaded with Beef, followed by eight master butchers, in clean frocks, with cleavers, &c.
[The above were our worthy brethren of Roxbury.]

BLACKSMITHS,
Preceded by Messrs. Clough and Baker,
To the number of seventy-three, carrying implements of their craft, decorated with ribbons, &c.

SHIPWRIGHTS,
Preceded by Deacon Sharp,
To the number of forty-three, with tools decorated, &c.

ROPE-MAKERS,
Preceded by Mr. J. Richardson,
To the number of seventy-five, their waists encircled with hemp, with a cable sled, drawn by workmen, decorated with colors, and attended with martial music.

MAST-MAKERS,
Preceded by Mr. S. Harris,
To the number of thirty, with tools decorated, &c.

SAIL-MAKERS,
Preceded by Deacon Barrett,
To the number of thirty, with their tools.

SHIP-JOINERS,
Preceded by Mr. T. Uran,
To the number of thirty-four, with their tools, decorated.

BLOCK-MAKERS,
Preceded by Mr. J. Brewer,
To the number of thirty, with tools, &c.

MATHEMATICAL INSTRUMENT MAKERS,
To the number of six, with instruments, &c.

COOPERS,
Preceded by Capt. J. Wheelwright,
To the number of fifty-three, with tools, decorated, &c.

BOAT-BUILDERS,
Preceded by Mr. T. Hichborn,
To the number of twenty, with tools, &c.

COACH AND CHAISE MAKERS,
Preceded by Maj. Hawes,
To the number of eight, with a coach painted on paper.

PAINTERS,
Preceded by Col. Mason,
To the number of twenty-five, with pallets, &c., decorated.

HEAD-BUILDERS,
To the number of four, in one rank, with their moulds, decorated.

CARVERS,
Preceded by Mr. J. Skillings,
With tools, &c., decorated, to the number of twelve.

RIGGERS,
To the number of eighteen, with tools, &c.

GLAZIERS AND PLUMBERS,
Preceded by Capt. Norton Brailsford,
To the number of sixteen, with diamonds, &c.

FOUNDERS AND COPPER-SMITHS,
Preceded by Mr. Caldwell,
To the number of ten, with tools.

CABINET-MAKERS,
Preceded by Mr. Bright,
To the number of thirteen.

PEWTERERS,
To the number of six, in one rank.

TINMEN,
To the number of three, in one rank.

BAKERS,
Preceded by Mr. J. Jenkins,
To the number of forty, with their tools, &c.

TANNERS AND CURRIERS,
Preceded by Mr. S. Bass,
To the number of twenty-eight, with tools, &c.

SHOEMAKERS,
Preceded by Mr. S. Bangs,
To the number of fifty, with lasts, &c., decorated.

TAILORS,

Preceded by Mr. T. Capron,

To the number of fifty-six, with their tools, measures, &c.

HATTERS,

Preceded by Major Seward,

To the number of twenty-six, with their bows, furs, &c.

TALLOW-CHANDLERS,

To the number of eight, with a miniature press, moulds, &c.

Mr. Vose, on horseback.

The ship FEDERAL CONSTITUTION, on runners, drawn by thirteen horses,

John Foster Williams, Esq., *Commander*,

Lieut. Weeks,
Lieut. Adams,
Mr. La Moine, *Master*,
Mr. E. Sigourney, *Purser*,

Manned by thirteen seamen and marines.

With full colors flying, followed by captains of vessels, eighty-five seamen, dressed in ribbons, and about two hundred and fifty of the principal merchants in town.

SHIP-BUILDERS,

To the number of twenty, with a sled, drawn by thirteen horses, bearing a large long boat, representing tho old ship *Confederation* hauled up, over which was erected a large platform emblem of a dock-yard, with thirteen ships, of various sizes, therein; the workmen with their tools, &c.

CARPENTERS,

Preceded by Mr. Crafts,

To the number of one hundred and thirty-six, with tools of every sort, decorated.

MASONS,

Preceded by Major Bell,

To the number of seventy, with trowels, &c., as at work.

WHEELWRIGHTS,

To the number of thirty, with the insignia of their crafts.

PRINTERS,
Preceded by Mr. B. Edes,
To the number of fifteen, with a stand, drawn on a sled, and compositors at work.

BOOKBINDERS,
With their ploughs, &c.

CHAIR-MAKERS,
Preceded by Mr. Allcock,
To the number of six.

SADDLERS,
To the number of twelve, with tools, decorated, &c.

TOBACCONISTS,
Preceded by Mr. McElroy,
To the number of thirteen, with tools, emblematical of their profession.

GOLDSMITHS AND JEWELLERS,
To the number of fifteen, with hammers, &c.

HORN BUTTON AND COMB-MAKERS,
in one rank.

A MILLER.

LEATHER-DRESSERS,
Preceded by Major W. Dawes, on horseback,
(dressed in skins,)
To the number of twenty, with skins, and working tools.

CARD-MAKERS,
To the number of twelve, with wire, &c.

The COMMITTEE OF TRADESMEN, viz.: John Lucas, Esq., Mr. Joseph Clark, Col. Paul Revere, Capt. Rhodes, Deacon William Bordman, Joshua Witherlé, Esq., and Capt. David Spear, with a band of music, in a sleigh, drawn by four horses.

The REPUBLICAN VOLUNTEERS, commanded by Capt. Gray, closed the procession.

The numbers stated are those of the master-workmen, and were taken from an actual enumeration of the procession, at two o'clock. At other times in the day, the procession was much more full.

In this order the whole proceeded by the houses of the several gentlemen who represented this town in Convention, and testified their approbation of their conduct by three huzzas from the whole line and salutes from the ship, and the volunteer company. About four o'clock the procession arrived at the hall, where refreshment was liberally provided, at which as many as could find admittance, partook; but though the hall will hold fifteen hundred men, not above one-third of the procession could get in. However, we were happy that our country friends were accommodated to their wishes.

We have not time to give a just account of this beautiful parade. We can only say, that the perfect order and urbanity, the dignity and solemnity that marked the procession through the whole day, were such as had a most interesting effect on the numerous spectators which a scene so august and novel collected together.

At two o'clock, when the procession passed by the State House, Capt. Johnson's company of artillery honored them with a salute of thirteen guns.

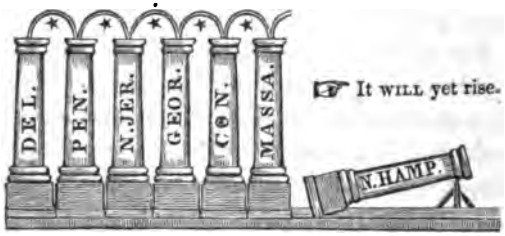
[From the Centinel of February 13, 1788.]

On Friday evening last, the long boat, called the *Old Confederation*, which had been exhibited in the procession that day, was drawn to the Common, where the officers, owners and crew, called a jury of carpenters to inspect her, who after examining every part, found her bottom so defective, and her timber and planks so rotten, that they were unanimous in their verdict, to condemn her, as unfit for any further service. She was accordingly ordered to be burnt, which was immediately done, in presence of an applauding concourse of citizens.

[The following song and ballad, (a verse of which has already been quoted,) give a lively idea of the spirit of the times :—]

THE RAISING.

A NEW SONG FOR FEDERAL MECHANICS.



[35]

I.

Come muster, my lads, your mechanical tools,
Your saws and your axes, your hammers and rules;
Bring your mallets and planes, your level and line,
And plenty of pins of American pine;
For our roof we will raise, and our song still shall be—
A government firm, and our citizens free.

II.

Come, up with the Plates, lay them firm on the wall,
Like the people at large, they're the ground-work of all;
Examine them well and see that they're sound,
Let no rotten parts in our building be found;
For our roof we will raise, and our song still shall be—
Our government firm, and our citizens free.

III.

Now hand up the Girders, lay each in his place,
Between them the Joists must divide all the space;
Like assembly-men, these should lie level along,
Like Girders, our Senate prove loyal and strong;
For our roof we will raise, and our song still shall be—
A government firm, over citizens free.

[35] [The New Hampshire Convention had, at this time, adjourned to a future day, without taking a vote upon the question of ratification.]

IV.

The Rafters now frame—your King-Posts and Braces,
And drive your pins home, to keep all in their places;
Let wisdom and strength in the fabric combine,
And your pins be all made of American pine;
For our roof we will raise, and our song still shall be—
A government firm, over citizens free.

V.

Our King-Posts are judges—how upright they stand,
Supporting the Braces, the laws of the land—
The laws of the land, which divide right from wrong,
And strengthen the weak, by weak'ning the strong;
For our roof we will raise, and our song still shall be—
Laws equal and just for a people that's free.

VI.

Up! up with the Rafters—each frame is a State!
How nobly they rise! their span, too, how great!
From the north to the south, o'er the whole they extend,
And rests on the walls, while the walls they defend,
For our roof we will raise, and our song still shall be—
Combined in strength, yet as citizens free.

VII.

Now enter the Purlins, and drive your pins through,
And see that your joints are drawn home, and all true;
The Purlins will bind all the rafters together,
The strength of the whole shall defy wind and weather;
For our roof we will raise, and our song still shall be—
United as States, but as citizens free.

VIII.

Come, raise up the Turret—our glory and pride—
In the centre it stands—o'er the whole to preside;
The sons of Columbia shall view with delight
Its pillars, and arches, and towering height;
Our roof is now rais'd, and our song still shall be—
A Federal head, o'er a people still free.

IX.

Huzza! my brave boys, our work is complete,
The world shall admire Columbia's fair seat;
Its strength against tempests and time shall be proof,
And thousands shall come to dwell under our Roof.
Whilst we drain the deep bowl, our toast still shall be—
Our government firm, and our citizens free.

A YANKEE SONG.

The 'Vention did in Boston meet,
But State House could not hold 'em,
So then they went to Fed'ral Street,
And there the truth was told 'em—

Yankee doodle, keep it up!
Yankee doodle, dandy,
Mind the music and the step,
And with the girls be handy.

They ev'ry morning went to prayer,
And then began disputing,
'Till opposition silenc'd were,
By arguments refuting.

Yankee doodle, &c.

Then 'Squire Hancock like a man,
Who dearly loves the nation,
By a concil'atory plan,
Prevented much vexation.

Yankee doodle, &c.

He made a woundy Fed'ral speech,
With sense and elocution;
And then the 'Vention did beseech
T' adopt the Constitution.

Yankee doodle, &c.

The question being outright put,
(Each voter independent,)
The Fed'ralists agreed t' adopt,
And then propose amendment.

Yankee doodle, &c.

The other party seeing then
The people were against 'em,
Agreed like honest, faithful men,
To mix in peace amongst 'em.

Yankee doodle, &c.

The Boston folks are deuced lads,
And always full of notions;
The boys, the girls, their mams and dads,
Were fill'd with joy's commotions.

Yankee doodle, &c.

So straightway they procession made,
Lord! how nation fine, Sir!
For every man of every trade
Went with his tools——to dine, Sir.

Yankee doodle, &c.

John Foster Williams in a ship,
Joined in the social band, Sir,
And made the lasses dance and skip,
To see him sail on land, Sir.

Yankee doodle, &c.

Oh, then a whapping feast begun,
And all hands went to eating;
They drank their toasts, shook hands, and sung,
Huzza! for 'Vention meeting.

Yankee doodle, &c.

Now politicians of all kinds,
Who are not yet decided,
May see how Yankees speak their minds,
And yet are not divided.
Yankee doodle, &c.

Then from this sample let 'em cease
Inflammatory writing,
For Freedom, Happiness and Peace,
Is better far than fighting.
Yankee doodle, &c.

So here I end my Fed'ral song,
Composed of thirteen verses;
May agriculture flourish long,
And commerce fill our purses!
Yankee doodle, &c.

SPIRIT OF THE PRESS.

[In both the *Chronicle* and *Centinel*, series of elaborate essays in favor of and opposed to the Federal Constitution, were continued during the period that the question of ratification was pending. From many, as exhibiting the tone and scope of the discussion, we have selected the following from the *Independent Chronicle*.]

ON THE FEDERAL GOVERNMENT.

NUMBER ONE.

It is impossible for an honest and feeling mind, of any nation or country whatever, to be insensible to the present circumstances of America. Were I an East Indian or a Turk, I should consider this singular situation of a part of my fellow creatures, as most curious and interesting. Intimately connected with the country, as a citizen of the Union, I confess it entirely engrosses my mind and feelings.

To take a proper view of the ground on which we stand, it may be necessary to recollect the manner in which the United States were originally settled and established. Want of charity in the religious systems of Europe and of justice in their political governments, were the principal moving causes which drove the emigrants of various countries to the American continent. The Congregationalists, Quakers, Presbyterians and other British dissenters, the Catholics of England and Ireland, the Huguenots of France, the German Lutherans, Calvinists and Moravians, with several other societies, established themselves in the different colonies, thereby laying the ground of that catholicism in ecclesiastical affairs, which has been observable since the late Revolution. Religious liberty naturally promotes corresponding dispositions in matters of government. The Constitution of England, as it stood on paper, was one of the freest at that time existing in the world, and the American colonies considered themselves as entitled to the fullest enjoyment of it. Thus, when the ill-judged discussions of later times in England brought into question the rights of this country as it stood con-

nected with the British crown, we were found more strongly impressed with their importance, and accurately acquainted with their extent, than the wisest and most learned of our brethren beyond the Atlantic. When the greatest names in Parliament insisted on the power of that body over the commerce of the colonies, and even the right to bind us in all cases whatsoever, America, seeing that it was only another form of tyranny, insisted upon the immutable truth, that taxation and representation are inseparable, and while a desire of harmony and other considerations induced her into an acquiescence in the commercial regulations of Great Britain, it was done from the declared necessity of the case, and with a cautious, full and absolute saving of our voluntarily suspended rights. The Parliament was persevering, and America continued firm till hostilities and open war commenced, and finally the late Revolution closed the contest forever.

'Tis evident from this short detail, and the reflections which arise from it, that the quarrel between the United States and the Parliament of Great Britain, did not arise so much from objections to the form of government, though undoubtedly a better one by far is now within our reach, as from a difference concerning certain important rights resulting from the essential principles of liberty, which the Constitution preserved to all the subjects actually residing within the realm. It was not asserted by America that the people of the *Island of Great Britain* were slaves, but that *we*, though possessed absolutely of the same rights, were not admitted to enjoy an equal degree of freedom.

When the Declaration of Independence completed the separation between the two countries, new governments were necessarily established. Many circumstances led to the adoption of the republican form, among which was the predilection of the people. In devising the frames of government it may have been difficult to avoid extremes opposite to the vices of that we had just rejected; nevertheless, many of the State Constitutions we have chosen, are truly excellent. Our misfortunes have been, that in the first instance we adopted no national government at all, but we kept together by common danger only, and that in the confusions of a civil war we framed a Federal Constitution, now universally admitted to be inadequate to the

preservation of liberty, property, and the Union. The question is not, then, how far our State Constitutions are good, or otherwise—the object of our wishes is, to amend and supply the evident and allowed errors and defects of the Federal government. Let us consider awhile, that which is now proposed to us—let us compare it with the so much boasted British form of government, and see how much more it favors the people, and how completely it secures their rights, remembering at the same time, that we did not dissolve our connection with that country so much on account of its Constitution, as the perversion and maladministration of it.

In the first place, let us look at the nature and powers of the head of that country, and those of the ostensible head of ours.

The British King is the great Bishop or Supreme Head of an established church, with an immense patronage annexed. In this capacity he commands a number of votes in the House of Lords, by creating bishops, who, besides their great incomes, have votes in that assembly, and are judges in the last resort. They have also many honorable and lucrative places to bestow, and thus, from their wealth, learning, dignities, powers and patronage, give a great lustre and an enormous influence to the crown.

In America, our President will not only be without these influencing advantages, but they will be in the possession of the people at large, to strengthen their hands in the event of a contest with him. All religious funds, honors and powers, are in the gift of numberless unconnected, disunited and contending corporations, wherein the principle of perfect equality universally prevails. In short, danger from ecclesiastical tyranny, that long standing and still remaining curse of the people—that sacrilegious engine of royal power in some countries, can be feared by no man in the United States. In Britain, their king is for life; in America, our president will always be one of the people at the end of four years. In that country, the king is hereditary, and may be an idiot, a knave, or a tyrant by nature, or ignorant from neglect of his education, yet cannot be removed, for "he can do no wrong." In America, as the president is to be one of the people at the end of his short term, so will he and his fellow-citizens remember, that he was originally

one of the people, and that he is created by their breath. Further, he cannot be an idiot, probably not a knave or a tyrant, for those whom nature makes so, discover it before the age of thirty-five, until which period he cannot be elected. It appears that we have not admitted that he can do no wrong, but have rather presupposed he may and will sometimes do wrong, by providing for his impeachment, his trial, and his peaceable and complete removal.

In England, the king has a power to create members of the upper house, who are judges in the highest court, as well as legislators. Our president not only cannot make members of the upper house, but their creation, like his own, is by the people, through their representatives, and a member of assembly may and will be as certainly dismissed at the end of his year for electing a weak or wicked senator, as for any other blunder or misconduct.

The king of England has legislative power, while our president can only use it when the other servants of the people are divided. But in all great cases affecting the national interests or safety, his modified and restrained power must give way to the sense of two-thirds of the legislature. In fact, it amounts to no more than a serious duty imposed upon him, to request both houses to reconsider any matter on which he entertains doubts or feels apprehensions, and here the people have a strong hold upon him, from his sole and personal responsibility.

The president of the upper house (or the chancellor) in England, is appointed by the king, while our vice-president, who is chosen by the people through the electors and the senate, is not at all dependent on the president, but may exercise equal powers on some occasions. In all royal governments an helpless infant or an inexperienced youth, may wear the crown. Our president must be matured by the experience of years, and being born among us, his character at thirty-five must be fully understood. Wisdom, virtue, and active qualities of mind and body, can alone make him the first servant of a free and enlightened people.

Our president will fall very far short indeed of any prince in his annual income, which will not be hereditary, but the absolute allowance of the people passing through the hands of their

other servants, from year to year, as it becomes necessary. There will be no burdens on the nation to provide for his heir or other branches of his family. 'Tis probable, from the state of property in America, and other circumstances, that many citizens will exceed him in show and expense, those dazzling trappings of kingly rank and power. He will have no authority to make a treaty without two-thirds of the Senate, nor can he appoint ambassadors or other great officers without their approbation, which will remove the idea of patronage and influence, and of personal obligation and dependence. The appointment of even the inferior officers may be taken out of his hands by an act of Congress, at any time; he can create no nobility or titles of honor, nor take away offices during good behavior. His person is not so much protected as that of a member of the House of Representatives; for he may be proceeded against like any other man in the ordinary course of law. He appoints no officer of the separate States. He will have no influence from placemen in the legislature, nor can he prorogue or dissolve it. He will have no power over the treasures of the state; and lastly, as he is created through the electors, by the people at large, he must ever look up to the support of his creators. From such a servant, with powers so limited and transitory, there can be no danger, especially when we consider the solid foundations on which our national liberties are immovably fixed by the other provisions of this excellent Constitution. Whatever of dignity or authority he possesses, is a delegated part of their majesty and their political omnipotence, transiently vested in him by the people themselves for their own happiness. AN AMERICAN CITIZEN.

ON THE FEDERAL GOVERNMENT.

NUMBER TWO.

We have seen that the late honorable Convention, in designating the nature of the chief executive office of the United States, have deprived it of all the dangerous appendages of royalty, and provided for the frequent expiration of its limited

powers. As our president bears no resemblance to a king, so we shall see the senate have no similitude to nobles.

First then, not being hereditary, their collective knowledge, wisdom and virtue, are not precarious, for by these qualities alone are they to obtain their offices; and they will have none of the peculiar follies and vices of those men, who possess power merely because their fathers held it before them, for they will be educated (under equal advantages and with equal prospects) among and on a footing with the other sons of a free people. If we recollect the characters who have, at various periods, filled the seats of Congress, we shall find this expectation perfectly reasonable. Many young men of genius, and many characters of more matured abilities, without fortune, have been honored with that trust. Wealth has had but few representatives there, and those have been generally possessed of respectable personal qualifications. There have also been many instances of persons, not eminently endowed with mental qualities, who have been sent thither from a reliance on their virtues, public and private. As the senators are still to be elected by the legislatures of the States, there can be no doubt of equal safety and propriety in their future appointment, especially as no further pecuniary qualification is required by the Constitution.

They can hold no other office, civil or military, under the United States, nor can they join in making provisions for themselves, either by creating new places, or increasing the emoluments of old ones. As their sons are not to succeed them, they will not be induced to aim at an increase or perpetuity of their powers, at the expense of the liberties of the people, of which those sons will be a part. They possess a much smaller share of the judicial power than the upper house in Britain, for they are not, as there, the highest court in civil affairs. Impeachments alone are the cases cognizable before them, and in what other place could matters of that nature be so properly and safely determined? The judges of the federal courts will owe their appointments to the president and senate, therefore may not feel so perfectly free from favor, affection and influence, as the upper house, who receive their power from the people, through their State representatives, and are immediately

responsible to those assemblies, and finally to the nation at large. Thus we see when a daring or dangerous offender is brought to the bar of public justice, the people who alone can impeach him by their immediate representatives, will cause him to be tried, not by judges appointed in the heat of the occasion, but by two-thirds of a select body, chosen a long time before, for various purposes, by the collected wisdom of their State legislatures. From a pretence or affection of extraordinary purity and excellence of character, their word of honor is the sanction under which these high courts in other countries have given their sentence; but with us, like the other judges of the Union, like the rest of the people of which they are never to forget they are a part, it is required, that they be on oath.

No ambitious, undeserving or unexperienced youth can acquire a seat in this house by means of the most enormous wealth or most powerful connections, till thirty years have ripened his abilities and fully discovered his merits to his country—a more rational ground of preference surely than mere property.

The senate, though more independent of the people as to the free exercise of their judgment and abilities, than the house of representatives, by the longer term of their office, must be older and more experienced men, and the public treasures, the sinews of the state, cannot be called forth by their original motion. They may restrain the profusion or errors of the house of representatives, but they cannot take the necessary measures to raise a national revenue.

The people, through the electors, prescribe them such a president as shall be best qualified to control them.

They can only, by conviction on impeachment, remove and incapacitate a dangerous officer, but the punishment of him as a criminal remains within the province of the courts of law, to be conducted under all the ordinary forms and precautions, which exceedingly diminishes the importance of their judicial powers. They are detached, as much as possible, from local prejudices in favor of their respective States, by having a separate and independent vote, for the sensible and conscientious use of which, every member will find his person, honor and character seriously bound. He cannot shelter himself, under a

vote in behalf of his State, among his immediate colleagues. As there are only two, he cannot be voluntarily or involuntarily governed by the majority of the deputation. He will be obliged, by wholesome provisions, to attend his public duty, and thus in great national questions must give a vote, of the honesty of which he will find it necessary to convince his constituents.

The senate must always receive the exceptions of the president against any of their legislative acts, which, without serious deliberation and sufficient reasons, they will seldom disregard. They will also feel a considerable check from the constitutional powers of the State legislatures, whose rights they will not be disposed to infringe, since they are the bodies to which they owe their existence, and are moreover to remain the immediate guardians of the people.

And lastly, the senate will feel the mighty check of the house of representatives—a body so pure in its election, so intimately connected, by its interests and feelings, with the people at large, so guarded against corruption and influence; so much, from its nature, above all apprehensions, that it must ever be able to maintain the high ground assigned to it by the Federal Constitution.

AN AMERICAN CITIZEN.

ON THE FEDERAL GOVERNMENT.

NUMBER THREE.

In pursuing the consideration of the new Federal Constitution, it now remains to examine the nature and powers of the house of representatives—the immediate delegates of the people.

Each member of this truly popular assembly will be chosen by about six thousand electors, by the poor as well as the rich. No decayed and venal borough will have an unjust share in their determinations—no old Sarum will send thither a representative by a voice of a single elector.[36] As we shall have no royal ministers to purchase votes, so we shall have no votes for sale. For the suffrages of six thousand enlightened and inde-

[36] [This is the case (in 1788) with that British borough.]

pendent freemen are above all price. When the increasing population of the country should render the body too large at the rate of one member for every thirty thousand persons, they will be returned at the greater rate of one for every forty or fifty thousand, which will render the electors still more incorruptible. For this regulation is only designed to prevent a smaller number than thirty thousand from having a representative. Thus we see a provision follows, that no State shall have less than one member; for if a new and greater number should hereafter be fixed on, which shall exceed the whole of the inhabitants of any State, such State, without this wholesome provision, would lose its voice in the house of representatives—a circumstance which the Constitution renders impossible.

The people of England, whose House of Commons is filled with military and civil officers and pensioners, say their liberties would be perfectly secured by triennial parliaments. With us no placemen can sit among the representatives of the people, and two years are the constitutional term of their existence. Here again, least wealth, powerful connections, or even the unwariness of the people should place in this important trust an undeserving, unqualified or inexperienced youth, the wisdom of the Convention has proposed an absolute incapacity till the age of twenty-five. At twenty-one a young man is made the guardian of his own interest, but he cannot for a few years more be intrusted with the affairs of the nation. He must be an inhabitant of the State that elects him, that he may be intimately acquainted with their particular circumstances. The house of representatives is not, as the senate, to have a president chosen for them from without their body, but are to elect their speaker from their own number. They will also appoint all their other officers. In great state cases, they will be the grand inquest of the nation, for they possess the sole and uncontrollable power of impeachment. They are neither to wait the call nor abide the prorogations and dissolutions of a perverse or ambitious prince, for they are to meet at least once in every year, and sit on adjournments to be agreed on between themselves and the other servants of the people. Should they differ in opinion, the president, who is a temporary fellow servant, and not their hereditary master, has a mediatorial power to

adjust it for them, but cannot prevent their constitutional meeting within the year. They can compel the attendance of the members, that their public duty may not be evaded in times of difficulty or danger. The vote of each representative can be always known, as well as the proceedings of the house, that so the people may be acquainted with the conduct of those in whom they repose so important a trust. As was observed of the senators, they cannot make new offices for themselves, nor increase, for their own benefit, the emoluments of old ones, by which the people will be exempted from needless additions to the public expenses on such sordid and mercenary principles. They are not to be restrained from the firm and plain language which becomes the independent representatives of freemen, for there is to be a perfect liberty of speech. Without their consent no moneys can be obtained, no armies raised, no navies provided. They alone can originate bills for drawing forth the revenues of the Union, and they will have a negative upon every legislative act of the other house. So far, in short, as the sphere of Federal jurisdiction extends, they will be controllable only by the people, and in contentions with the other branch, so far as they shall be right, they must ever finally prevail.

Such, my countrymen, are some of the cautionary provisions of the frame of government your faithful Convention have submitted to your consideration, such the foundation of peace, liberty and safety, which have been laid by their unwearied labors. They have guarded you against all servants but those "whom choice and common good ordains," against all masters "save preserving Heaven."

AN AMERICAN CITIZEN.

ON THE FEDERAL GOVERNMENT.

NUMBER FOUR.

In considering the respective powers of the president, the senate and the house of representatives, under the Federal Constitution, we have seen a part of the wholesome precautions, which are contained in the new system. Let us examine what

further securities for the safety and happiness of the people are contained in the general stipulations and provisions.

The United States guarantee to every State in the Union a separate republican form of government. From thence it follows, that any man or body of men, however rich or powerful, who shall make an alteration in the form of goverment of any State, whereby the powers thereof shall be attempted to be taken out of the hands of the people at large, will stand guilty of high treason; or should a foreign power seduce or overawe the people of any State so as to cause them to vest in the families of any ambitious citizens or foreigners the powers of hereditary governors, whether as kings or nobles, that such investment of powers would be void in itself, and every person attempting to execute them, would also be guilty of treason.

No religious test is ever to be required of any officer or servant of the United States. The people may employ any wise and good citizen in the execution of the various duties of the government. In Italy, Spain and Portugal, no Protestant can hold a public trust. In England every Presbyterian, and other person not of their established church, is incapable of holding an office. No such impious deprivation of the rights of men can take place under the new Federal Constitution. The Convention has the honor of proposing the first public act, by which any nation has ever divested itself of a power, every exercise of which is a trespass on the majesty of Heaven.

No qualification in moneyed or landed property is required by the proposed plan; nor does it admit any preference from the preposterous distinctions of birth and rank. The office of the president, a senator, and a representative, and every other place of power or profit, are therefore open to the whole body of the people. Any wise, informed and upright man, be his property what it may, can exercise the trusts and powers of the state, provided he possesses the moral, religious and political virtues which are necessary to secure the confidence of his fellow-citizens.

The importation of slaves from any foreign country is, by a clear implication, held up to the world as equally inconsistent with the dispositions and the duties of the people of America. A solid foundation is laid for exploding the principles of negro

slavery, in which many good men of all parties in Pennsylvania, and throughout the Union, have already concurred. The temporary reservation of any particular matter must ever be deemed an admission that it should be done away. This appears to have been well understood. In addition to the arguments drawn from liberty, justice and religion, opinions against this practice, founded in sound policy, have no doubt been urged. Regard was necessarily paid to the peculiar situation of our Southern fellow-citizens; but they, on the other hand, have not been insensible of the delicate situation of our national character on this subject.

The people will remain, under the proposed Constitution, the fountain of power and public honor. The president, the senate and house of representatives, will be the channels through which the stream will flow—but it will flow from the people, and from them only. Every office, religious, civil and military, will be either their immediate gift, or it will come from them through the hands of their servants. And this, as observed before, will be guaranteed to them under the State Constitutions which they respectively approve; for they cannot be royal forms, cannot be aristocratical, but must be republican.

The people of those States which have faithfully discharged their duty to the Union, will be no longer subjected alone to the weight of the public debts. Proper arrangements will call forth the just proportion of their sister States, and our national character will again be as unstained, as it was once exalted. Elevation to independence, with the loss of our good name, is only to be conspicuous in disgrace. The liberties of a people involved in debt are as uncertain as the liberty of an individual in the same situation. Their virtue is more precarious. The unfortunate citizen must yield to the operation of the laws, while a bankrupt nation too easy annihilates the sacred obligations of gratitude and honor, and becomes execrable and infamous. I cannot refrain from reminding my fellow-citizens of our near approach to that deplorable situation, which must be our miserable condition, if the defects of the old Confederation remain without amendment. The proposed Constitution will cure the evil, and restore us to our rank among mankind.

Laws, made after the commission of the fact, have been a

dreadful engine in the hands of tyrannical governors. Some of the most virtuous and shining characters in the world have been put to death, by laws formed to render them punishable, for parts of their conduct which innocence permitted, and to which patriotism impelled them. These have been called *ex post facto* laws, and are exploded by the new system. If a time of public contention shall hereafter arrive, the firm and ardent friends to liberty may know the length to which they can push their noble opposition, on the foundation of the laws. Should their country's cause impel them further, they will be acquainted with the hazard, and using those arms which Providence has put into their hands, will make a solemn appeal to "the power above."

The destruction of the ancient republics was occasioned in every instance by their being ignorant of a great political position, which was left for America to discover and establish. Self-evident as the truth appears, we find no friend to liberty in ancient Greece or Rome asserting, that taxation and representation were inseparable. The Roman citizens, proud of their own liberty, imposed, in the freest times of the Commonwealth, the most grievous burdens on their wretched provinces. At other times we find thousands of their citizens, though residing within the walls of Rome, deprived of legislative representatives. When America asserted the novel truth, Great Britain, though boasting herself as alone free among the modern nations, denied it by her legislature, and endeavored to refute it by her arms—the reasoning of tyrants. But the attempt was vain, for the voice of truth was heard above the thunders of the war, and reached the ears of all nations. Henceforth the people of the earth will consider this position as the only rock on which they can found the temple of liberty, that taxation and representation are inseparable. Our new Constitution carries it into execution on the most enlarged and liberal scale, for a representative will be chosen by six thousand of his fellow-citizens, a senator by half a sovereign State, a president by a whole nation.

The old Federal Constitution contained many of the same things, which from error or disingenuousness are urged against the new one. Neither of them have a bill of rights, nor does

either notice the liberty of the press, because they are already provided for by the State Constitutions; and relating only to personal rights, they could not be mentioned; in a contract among sovereign States.

Both the old and new Federal Constitutions, and indeed the Constitution of Pennsylvania, admit of courts in which no use is made of a jury. The board of property, the court of admiralty, and the high court of errors and appeals, in the State of Pennsylvania, as also the court of appeals under the old Confederation, exclude juries. Trial by jury will therefore be in the express words of the Pennsylvania Constitution, "as heretofore,"—almost always used, though sometimes omitted. Trials for lands lying in any State between persons residing in such State, for bonds, notes, book debts, contracts, trespasses, assumptions, and all other matters between two or more citizens of any States, will be held in the State courts by juries, as now. In these cases the Federal courts cannot interfere. But when a dispute arises between the citizens of any State about lands lying out of the bounds thereof, or when a trial is to be had between the citizens of any State, and those of another, or the government of another, the private citizen will not be obliged to go into a court constituted by the State, with which, or with the citizens of which, his dispute is. He can appeal to a disinterested Federal court. This is surely a great advantage, and promises a fair trial, and an impartial judgment. The trial by jury is not excluded in these Federal courts. In all criminal cases, where the property, liberty or life of the citizens is at stake, he has the benefit of a jury. If convicted on impeachment, which is never done by a jury in any country, he cannot be fined, imprisoned or punished, but only may be disqualified from doing public mischief by losing his office, and his capacity to hold another. If the nature of his offence, besides its danger to his country, should be criminal in itself—should involve a charge of fraud, murder or treason—he may be tried for such crime, but cannot be convicted without a jury. In trials about property in the Federal courts, which can only be as above stated, there is nothing in the new Constitution to prevent a trial by jury. No doubt it will be the mode in every case, wherein it is practicable. This will be adjusted by law, and it

could not be done otherwise. In short, the sphere of jurisdiction for the Federal courts is limited, and that sphere only is subject to the regulations of our Federal government. The known principles of justice, the attachment to trial by jury, whenever it can be used, the instructions of the State legisla tures, the instructions of the people at large, the operation of the Federal regulations on the property of a president, a senator, a representative, a judge, as well as on that of a private citizen, will certainly render those regulations as favorable as possible to property; for life and liberty are put more than ever into the hands of the juries. Under the present Constitution of all the States, a public officer may be condemned to imprisonment or death on impeachment, without a jury; but the new Federal Constitution protects the accused, till he shall be convicted, from the hands of power, by rendering a jury the indispensable judges of all crimes.

The influence which foreign powers may attempt to exercise in our affairs was foreseen, and a wholesome provision has been made against it; for no person holding an office under the United States is permitted to enjoy any foreign honors, powers or emoluments.

The apprehensions of the people have been excited, perhaps by persons with good intentions, about the powers of the new government to raise an army. Let us consider this point with moderation and candor. As enemies will sometimes insult us, invade our country, and capture our property, it is clear a power in our government to oppose, restrain or destroy them, is necessary to our honor, safety and existence. The military should, however, be regarded with a watchful eye; for it is a profession that is liable to dangerous perversion. But the powers vested in the Federal government do not go the length which has been said. A standing army is not granted or intended, for there can be no provision for its continuing three years, much less for its permanent establishment. Two years are the utmost time for which the money can be given. It will be under all the restrictions which wisdom and jealousy can suggest, and the original grant of the supplies must be made by the house of representatives, the immediate delegates of the people. The senate and president, who also derive their power from the peo-

ple, appoint the officers; and the heads of the departments, who must submit their accounts to the whole legislature, are to pay and provide them, as shall be directed by the laws that shall contain the conditions of the grant. The militia, who are in fact the effective part of the people at large, will render many troops quite unnecessary. They will form a powerful check upon the regular troops, and will generally be sufficient to overawe them—for our detached situation will seldom give occasion to raise an army, though a few scattered companies may often be necessary. But whenever, even on the most obvious reasons, an army shall be raised, the several States will be called, by the nature of things, to attend to the condition of the militia. Republican jealousy, the guardian angel of these States, will watch the motions of our military citizens, even though they will be the soldiers of a free people. There is a wide difference between the troops of such a Commonwealth as ours, founded on equal and unalterable principles, and those of a regal government, where ambition and oppression are the profession of the king. In the first case, a military officer is the occasional servant of the people, employed for their defence; in the second, he is the ever ready instrument to execute the schemes of conquest or oppression, with which the mind of his royal master may be disturbed.

Observations have been made on the power given to the Federal government, in regard to the elections of representatives and senators. The regulations of these elections are, by the first part of the clause, to be prescribed by the State legislatures, who are certainly the proper bodies, if they will always execute the duty. But in case the Union or the public safety should be endangered by an omission of this duty, as in the case of Rhode Island, then the legislature of the United States can name for the people a convenient time, and do other matters necessary to insure the free exercise of their right of election. The exception, in regard to the places of choosing senators, was made from due respect to the sovereignty of the State legislatures, who are to elect the senators, and whose place of meeting ought not to be prescribed to them by any authority, except indeed, as we always must, by the authority of the people. This power given to the Federal legislature is no more than what

is possessed by the governments of all the States. The Constitution of Pennsylvania permits two-thirds of such cities and counties, as shall elect representatives, to exercise all the powers of the General Assembly, "as fully and amply as if the whole were present," should any part of the State neglect or refuse to perform their duty in this particular. In short, it is a power necessary to preserve the social compact of each State and the confederation of the United States.

Besides the securities for the liberties of the people arising out of the Federal government, they are guarded by their State Constitutions, and by the nature of things in the separate States. The governor or president in each Commonwealth, the councils, senates, assemblies, judges, sheriffs, grand and petit juries, officers of militia, clergy and lay officers of all churches, State and county treasurers, prothonotaries, registers, presidents and other officers of universities, colleges and academies, wardens of ports and cities, burgesses of towns, commissioners of counties, county lieutenants, and many other officers of power and influence, will still be chosen within each State, without any possible interference of the Federal government. The separate States will also choose all the members of the legislative and executive branches of the United States. The people at large in each State will choose their Federal representatives, and, unless ordered otherwise by the State legislatures, may choose the electors of the president and vice-president of the Union. And lastly, the legislatures of the States will have the election of the senate, as they have heretofore had of the members of Congress. Let us then, with a candor worthy of the subject, ask ourselves, whether it can be feared that a majority of the representatives, each of whom will be chosen by six thousand enlightened freemen, can betray their country? Whether a majority of the senate, each of whom will be chosen by the legislature of a free, sovereign and independent State, without any stipulations in favor of wealth or the contemptible distinctions of birth or rank, and who will be closely observed by the State legislatures, can destroy our liberties, controlled as they are too by the house of representatives?—or whether a temporary, limited executive officer, watched by the representatives, by the senate, by the State legislatures, by his personal enemies among the people of

his own State, by the jealousy of the people of rival States, and by the whole of the people of the Union, can ever endanger our freedom?

Permit me, my fellow-citizens, to close these observations by remarking, that there is no spirit of arrogance in the new Federal Constitution. It addresses you with becoming modesty, admitting that it may contain errors. Let us give it a trial; and when experience has taught its mistakes, the people, whom it preserves absolutely all powerful, can reform and amend them. That I may be perfectly understood, I will acknowledge, its acceptance by all the States, without delay, is the second wish of my heart. The first is, that our country may be virtuous and free. AN AMERICAN CITIZEN.

OPINION OF DR. FRANKLIN.

The following Address of His Excellency BENJAMIN FRANKLIN, Esq., to the President of the late Continental Convention, was delivered by him immediately before his signing the proposed Constitution for the United States. It may be relied on as authentic—coming from a gentleman of respectability.

Mr. President: I confess that I do not entirely approve of this Constitution at present,—but, Sir, I am not sure I shall never approve it: for having lived long, I have experienced many instances of being obliged by better information or fuller consideration, to change opinions even on important subjects, which I once thought right, but found to be otherwise. It is therefore that the older I grow, the more apt I am to doubt my own judgment, and to pay more respect to the judgment of others. Most men, indeed, as well as most sects in religion, think themselves in possession of all truth, and that wherever others differ from them, it is so far error. Steele, a Protestant, in a dedication, tells the Pope, that the only difference between our two churches, in their opinions of the certainty of their doctrine, is, the Romish church is infallible, and the church of

England is *never in the wrong*. But though many private persons think almost as highly of their own infallibility as that of their sect, few express it so naturally as a certain French lady, who, in a little dispute with her sister, said, I don't know how it happens, sister, but I meet with no body but myself that is always in the right.

In these sentiments, Sir, I agree to this Constitution, with all its faults, if they are such;—because I think a general government necessary for us, and there is no *form* of government but what may be a blessing to the people, if well administered;—and I believe, farther, that this is likely to be well administered for a course of years, and can only end in despotism, as other forms have done before it, when the people shall become so corrupted as to need despotic government, being incapable of any other.

I doubt, too, whether any other Convention we can obtain, may be able to make a better Constitution. For when you assemble a number of men, to have the advantage of their joint wisdom, you inevitably assemble with those men, all their prejudices, their passions, their errors of opinion, their local interests, and their selfish views. From such an assembly, can a perfect production be expected? It therefore astonishes me, Sir, to find this system approaching so near to perfection as it does. And I think it will astonish our enemies who are waiting with confidence to hear that our councils are confounded like those of the builders of Babel, and that our States are on the point of separation—only to meet hereafter for the purpose of cutting one another's throats. Thus I consent, Sir, to this Constitution, because I expect no better, and because I am not sure that it is not the best. Much of the strength and efficiency of any government in procuring and securing happiness to the people, depends on opinion,—on the general opinion of the goodness of that government, as well as of the wisdom and integrity of its governors. I hope, therefore, that for our own sakes as a part of the people, and for the sake of our posterity, we shall act heartily and unanimously in recommending this Constitution, wherever our influence may extend, and turn our future thoughts and endeavors to the means of having it well administered.

On the whole, Sir, I cannot help expressing a wish that every member of the Convention who may still have objections to it, would, with me on this occasion, doubt a little of his own infallibility, and to make *manifest* our *unanimity*, put his name to this instrument.

SPEECH OF JAMES WILSON.

Speech delivered by JAMES WILSON, Esq., explanatory of the general principles of the proposed Federal Constitution; upon a motion made by the Hon. Thomas M'Kean, in the Convention of the State of Pennsylvania, on Saturday, November 24th, 1787: [a speech which exercised considerable influence not only in Pennsylvania but also in Massachusetts.]

As the only member of this respectable body, who had the honor of a seat in the late Federal Convention, it is peculiarly my duty, Mr. President, to submit to your consideration the general principles that have produced the national Constitution, which has been framed and proposed by the assembled delegates of the United States, and which must finally stand or fall by the concurrent decision of this Convention, and of others acting upon the same subject, under similar powers and authority. To frame a government for a single City or State, is a business both in its importance and facility, widely different from the task intrusted to the Federal Convention, whose prospects were extended not only to thirteen independent and sovereign States, some of which in territorial jurisdiction, population, and resource, equal the most respectable nations of Europe, but likewise to innumerable States yet unformed, and to myriads of citizens who in future ages shall inhabit the vast uncultivated regions of the continent. The duties of that body, therefore, were not limited to local or partial considerations, but to the formation of a plan commensurate with a great and valuable portion of the globe.

I confess, Sir, that the magnitude of the object before us, filled our minds with awe and apprehension. In Europe the

opening and extending the navigation of a single river, has been deemed an act of imperial merit and importance; but how insignificant does it seem when we contemplate the scene that nature here exhibits, pouring forth the Potomac, the Rappahannock, the Susquehanna, and other innumerable rivers, to dignify, adorn and enrich our soil. But the magnitude of the object was equalled by the difficulty of accomplishing it, when we considered the uncommon dexterity and address that were necessary to combat and reconcile the jarring interests that seemed naturally to prevail, in a country, which, presenting a coast of fifteen hundred miles to the Atlantic, is composed of thirteen distinct and independent States, varying essentially in their situation and dimensions, and in the number and habits of their citizens. Their interests, too, in some respects really different, and in many apparently so; but whether really or apparently, such is the constitution of the human mind, they make the same impression, and are prosecuted with equal vigor and perseverance. Can it then be a subject for surprise that with the sensations indispensably excited by so comprehensive and so arduous an undertaking, we should for a moment yield to despondency, and at length, influenced by the spirit of conciliation, resort to mutual concession, as the only means to obtain the great end for which we were convened? Is it a matter of surprise that where the springs of dissension were so numerous and so powerful, some force was requisite to impel them to take, in a collected state, a direction different from that which separately they would have pursued?

There was another reason, that in this respect increased the difficulties of the Federal Convention—the different tempers and dispositions of the people for whom they acted. But, however widely they may differ upon other topics, they cordially agree in that keen and elevated sense of freedom and independence, which has been manifested in their united and successful opposition to one of the most powerful kingdoms of the world. Still it was apprehended by some, that their abhorrence of constraint would be the source of objection and opposition; but, I confess, that my opinion, formed upon a knowledge of the good sense, as well as the high spirit of my constituents, made me confident that they would esteem that government to be the best

which was best calculated eventually to establish and secure the dignity and happiness of their country. Upon this ground, I have occasionally supposed that my constituents have asked the reason of my assent to the several propositions contained in the plan before us. My answer, though concise, is a candid, and, I think, a satisfactory one—because I thought them right; and thinking them right, it would be a poor compliment indeed to presume they could be disagreeable to my constituents—a presumption that might occasion a retort to which I wish not to expose myself, as it would again be asked, "Is this the opinion you entertain of those who have confided in your judgment? From what ground do you infer that a vote right in itself would be disagreeable to us?" and it might with justice be added, "this sentiment evinces that you deserve not the trust which we reposed in you." No, Sir! I have no right to imagine that the reflected rays of delegated power can displease by a brightness that proves the superior splendor of the luminary from which they proceed.

The extent of country for which the new Constitution was required, produced another difficulty in the business of the Federal Convention. It is the opinion of some celebrated writers, that to a small territory, the democratical, to a middling territory, (as Montesquieu has termed it,) the monarchical, and, to an extensive territory, the despotic form of government, is best adapted. Regarding, then, the wide and almost unbounded jurisdiction of the United States, at first view, the hand of despotism seemed necessary to control, connect, and protect it; and hence the chief embarrassment arose. For, we knew that, although our constituents would cheerfully submit to the legislative restraints of a free government, they would spurn at every attempt to shackle them with despotic power.

In this dilemma, a Federal Republic naturally presented itself to our observation, as a species of government which secured all the internal advantages of a republic, at the time time that it maintained the external dignity and force of a monarchy. The definition of this form of government may be found in Montesquieu, who says, I believe, that it consists in assembling distinct societies, which are consolidated into a new body, capable of being increased by the addition of other members;—an

expanding quality peculiarly fitted to the circumstances of America.

But, while a Federal Republic removed one difficulty, it introduced another, since there existed not any precedent to assist our deliberations; for, though there are many single governments, both ancient and modern, the history and principles of which are faithfully preserved, and well understood, a perfect confederation of independent states is a system hitherto unknown. The Swiss Cantons, which have often been mentioned in that light, cannot properly be deemed a Federal Republic, but merely a system of united states. The united Netherlands are also an assemblage of States; yet, as their proceedings are not the result of their combined decisions, but of the decisions of each State individually, their association is evidently wanting in that quality which is essential to constitute a Federal Republic. With respect to the Germanic body, its members are of so disproportionate a size, their separate governments and jurisdictions so different in nature and extent, the general purpose and operation of their union so indefinite and uncertain, and the exterior power of the House of Austria so prevalent, that little information could be obtained or expected from that quarter. Turning, then, to ancient history, we find the Achæan and Lycian Leagues, and the Amphyctionic Council bearing a superficial resemblance to a Federal Republic; but of all these, the accounts which have been transmitted to us are too vague and imperfect to supply a tolerable theory, and they are so destitute of that minute detail from which practical knowledge may be derived, that they must now be considered rather as subjects of curiosity, than of use or information.

Government, indeed, taken as a science, may yet be considered in its infancy; and with all its various modifications, it has hitherto been the result of force, fraud, or accident. For, after the lapse of six thousand years since the creation of the world, America now presents the first instance of a people assembled to weigh deliberately and calmly, and to decide leisurely and peaceably, upon the form of government by which they will bind themselves and their posterity. Among the ancients, three forms of government seem to have been correctly known,—the monarchical, aristocratical, and democratical,—

but their knowledge did not extend beyond those simple kinds, though much pleasing ingenuity has occasionally been exercised in tracing a resemblance of mixed government in some ancient institutions, particularly between them and the British Constitution. But, in my opinion, the result of these ingenious refinements does more honor to the moderns in discovering, than to the ancients in forming, the similitude. In the work of Homer, it is supposed by his enthusiastic commentators, the seeds of every science are to be found; but, in truth, they are first observed in subsequent discoveries, and then the fond imagination transplants them to the book. Tacitus, who lived towards the close of that period which is called ancient, who had read the history of all antecedent and cotemporary governments, who was perfectly competent to judge of their nature, tendency and quality, Tacitus considers a mixed government as a thing rather to be wished than expected; and, if ever it did occur, it was his opinion, that it could not last long. One fact, however, is certain, that the ancients had no idea of representation, that essential to every system of wise, good, and efficient government. It is surprising, indeed, how very imperfectly, at this day, the doctrine of representation is understood in Europe. Even Great Britain, which boasts a superior knowledge of the subject, and is generally supposed to have carried it into practice, falls far short of its true and genuine principles. For, let us inquire, does representation pervade the constitution of that country? No. Is it either immediately or remotely the source of the executive power? No. For it is not any part of the British constitution, as practised at this time, that the king derives his authority from the people. Formerly that authority was claimed by hereditary or divine right; and even at the revolution, when the government was essentially improved, no other principle was recognized but that of an original contract between the sovereign and the people—a contract which rather excludes than implies the doctrine of representation. Again—is the judicial system of England grounded on representation? No. For the judges are appointed by the king, and he, as we have already observed, derives not his majesty or power from the people. Lastly, then, let us review the legislative body of that nation, and even there, though we find

representation operating as a check, it cannot be considered as a pervading principle. The lords, acting with hereditary right, or under an authority immediately communicated by regal prerogative, are not the representatives of the people, and yet they, as well as the sovereign, possess a negative power in the paramount business of legislation. Thus the vital principle of the British constitution is confined to a narrow corner, and the world has left to America the glory and happiness of forming a government, where representation shall at once supply the basis and the cement of the superstructure. For, representation, Sir, is the true chain between the people and those to whom they intrust the administration of the government; and though it may consist of many links, its strength and brightness never should be impaired. Another, and perhaps the most important obstacle to the proceedings of the Federal Convention, arose in drawing the line between the national and the individual governments of the States.

On this point a general principle readily occurred, that whatever object was confined in its nature and operation to a particular State, ought to be subject to the separate government of the States; but whatever in its nature and operation extended beyond a particular State, ought to be comprehended within the Federal jurisdiction. The great difficulty, therefore, was the application of this general principle, for it was found impracticable to enumerate and distinguish the various objects to which it extended, and as the mathematics only are capable of demonstration, it ought not to be thought extraordinary that the Convention could not develop a subject involved in such endless perplexity. If, however, the proposed Constitution should be adopted, I trust that in the theory there will be found such harmony, and in the practice such mutual confidence between the national and individual governments, that every sentiment of jealousy and apprehension will be effectually destroyed. But, Sir, permit me to ask, whether on the ground of a union, the individual or national government ought most to be trusted? For my part, I think it more natural to presume that the interest of each would be pursued by the whole, than the reverse of the proposition, that the several States would prefer the interest of the confederated body; for in the general

government each is represented, but in the separate governments, only the separate States.

These difficulties, Mr. President, which embarrassed the Federal Convention, are not represented to enhance the merit of surmounting them, but with a more important view, to show how unreasonable it is to expect that the plan of government should correspond with the wishes of all the States, of all the citizens of any one State, or of all the citizens of the united continent. I remember well, Sir, the effect of those surrounding difficulties in the late Convention. At one time the great and interesting work seemed to be at a stand; at another, it proceeded with energy and rapidity; and when at last it was accomplished, many respectable members beheld it with wonder and admiration. But having pointed out the obstacles which they had to encounter, I shall now beg leave to direct your attention to the end which the Convention proposed.

Our wants, imperfections and weakness, Mr. President, naturally incline us to society; but it is certain society cannot exist without some restraints. In a state of nature each individual has a right, uncontrolled, to act as his pleasure or his interest may prevail; but it must be observed that this license extends to every individual, and hence the state of nature is rendered insupportable by the interfering claims, and the consequent animosities of men, who are independent of every power and influence but their passions and their will. On the other hand, in entering into the social compact, though the individual parts with a portion of his natural rights, yet, it is evident that he gains more by the limitation of the liberty of others, than he loses by the limitation of his own—so that in truth, the aggregate of liberty is more in society than it is in a state of nature.

It is then, Sir, a fundamental principle of society, that the welfare of the whole shall be pursued and not of a part, and the measures necessary to the good of the community must consequently be binding upon the individuals that compose it. This principle is universally allowed to be just with respect to single governments, and there are instances in which it applies with equal force to independent communities; for the situation and circumstances of states may make it as necessary for them as for individuals, to associate. Hence, Mr. President, the impor-

tant question arises—are such the situation and circumstances of the American States?

At this period, America has it in her power to adopt either of the following modes of government: She may dissolve the individual sovereignty of the States, and become one consolidated empire; she may be divided into thirteen separate, independent and unconnected commonwealths; she may be erected into two or more confederacies; or, lastly, she may become one comprehensive Federal Republic.

Allow me, Sir, to take a short view of each of these suppositions. Is it probable that the dissolution of the State governments, and the establishment of one consolidated empire, would be eligible in its nature, and satisfactory to the people in its administration? I think not, as I have given reasons to show that so extensive a territory could not be governed, connected, and preserved, but by the supremacy of despotic power. All the exertions of the most potent emperors of Rome were not capable of keeping that empire together, which in extent was far inferior to the dominion of America. Would an independent, an unconnected situation, without any associating head, be advantageous or satisfactory. The consequences of this system would at one time expose the States to foreign insult and depredations, and, at another, to internal jealousy, contention, and war. Then let us consider the plan of two or more confederacies, which has often been suggested, and which certainly presents some aspects more inviting than either of the preceding modes, since the subjects of strife would not be so numerous, the strength of the confederates would be greater, and their interests more united. But even here, when we fairly weigh the advantages and the disadvantages, we shall find the last greatly preponderating; the expenses of government would be considerably multiplied, the seeds of rivalship and animosity would spring up, and spread the calamities of war and tumult through the country; for though the sources of rancor might be diminished, their strength and virulence would probably be increased.

Of these three species of government, however, I must observe, that they obtained no advocates in the Federal Convention, nor can I presume that they will find advocates here, or in any of our sister States. The general sentiment in that body, and, I

believe, the general sentiment of the citizens of America, is expressed in the motto which some of them have chosen, *unite or die;* and while we consider the extent of the country, so intersected and almost surrounded with navigable rivers, so separated and detached from the rest of the world, it is natural to presume that Providence has designed us for an united people, under one great political compact. If this is a just and reasonable conclusion, supported by the wishes of the people, the Convention did right in proposing a single confederated republic. But in proposing it, they were necessarily led, not only to consider the situation, circumstances, and interests of one, two, or three States, but of the collective body; and as it is essential to society that the welfare of the whole should be preferred to the accommodation of a part, they followed the same rule in promoting the national advantages of the Union, in preference to the separate advantages of the States. A principle of candor, as well as duty, lead to this conduct; for, as I have said before, no government, either single or confederated, can exist, unless private and individual rights are subservient to the public and general happiness of the nation. It was not alone the State of Pennsylvania, however important she may be as a constituent part of the Union, that could influence the deliberations of a Convention, formed by a delegation from all the United States, to devise a government adequate to their common exigencies, and impartial in its influence and operation. In the spirit of union, inculcated by the nature of their commission, they framed the Constitution before us, and in the same spirit, they submit it to the candid consideration of their constituents.

Having made some remarks upon the nature and principles of civil society, I shall now take a cursory notice of civil liberty, which is essential to the well-being of civil government. The definition of civil liberty is, briefly, that portion of natural liberty which men resign to the government, and which then produces more happiness than it would have produced if retained by the individuals who resign it;—still, however, leaving to the human mind the full enjoyment of every privilege that is not incompatible with the peace and order of society. Here I am easily led to the consideration of another species of liberty, which has not

yet received a discriminating name, but which I will venture to term Federal liberty. This, Sir, consists in the aggregate of the civil liberty which is surrendered by each State to the national government; and the same principles that operate in the establishment of a single society, with respect to the rights reserved or resigned by the individuals that compose it, will justly apply in the case of a confederation of distinct and independent States.

These observations have been made, Mr. President, in order to preface a representation of the state of the Union, as it appeared to the late Convention. We all know, and we have all felt, that the present system of confederation is inadequate to the government and the exigencies of the United States. Need I describe the contrasted scene which the Revolution has presented to our view? On the one hand, the arduous struggle in the cause of liberty, terminated by a glorious and triumphant peace; on the other, contention and poverty at home, discredit and disgrace abroad. Do we not remember what high expectations were formed by others and by ourselves, on the return of peace? And have those honorable expectations from our national character been realized? No! What then has been the cause of disappointment? Has America lost her magnanimity or perseverance? No. Has she been subdued by any high handed invasion of her liberties? Still I answer, no; for, dangers of that kind were no sooner seen, than they were repelled. But the evil has stolen in from a quarter little suspected, and the rock of Freedom, which stood firm against the attacks of a foreign foe, has been sapped and undermined by the licentiousness of our own citizens. Private calamity and public anarchy have prevailed, and even the blessing of independency has been scarcely felt or understood by a people who have dearly achieved it.

Shall I, Sir, be more particular in this lamentable history? The commencement of peace was likewise the commencement of our distresses and disgrace. Devoid of power, we could neither prevent the excessive importations which lately deluged the country, nor even raise from that excess a contribution to the public revenue; devoid of importance, we were unable to command a sale for our commodities in a foreign market;

devoid of credit, our public securities were melting in the hands of their deluded owners, like snow before the sun; devoid of dignity, we were inadequate to perform treaties on our own part, or to compel a performance on the part of a contracting nation. In short, Sir, the tedious tale disgusts me, and I fondly hope it is unnecessary to proceed. The years of languor are over. We have seen dishonor and destruction, it is true, but we have at length penetrated the cause, and are now anxious to obtain the cure. The cause need not be specified by a recapitulation of facts; every act of Congress, and the proceedings of every State are replete with proofs in that respect, and all point to the weakness and imbecility of the existing Confederation; while the loud and concurrent voice of the people proclaims an efficient national government to be the only cure. Under these impressions, and with these views, the late Convention were appointed and met; the end which they proposed to accomplish being to frame one national and efficient government, in which the exercise of beneficence, correcting the jarring interests of every part, should pervade the whole, and by which the peace, freedom and happiness of the United States should be permanently insured. The principles and means that were adopted by the Convention to obtain that end, are now before us, and will become the great object of our discussion. But on this point, as upon others, permit me to make a few general observations.

In all governments, whatever is their form, however they may be constituted, there must be a power established from which there is no appeal, and which is therefore called absolute, supreme and uncontrollable. The only question is, where that power is lodged? A question that will receive different answers from the different writers on the subject. Sir William Blackstone says, it resides in the omnipotence of the British Parliament, or, in other words, corresponding with the practice of that country, it is whatever the British Parliament pleases to do: so that when that body was so base and treacherous to the rights of the people as to transfer the legislative authority to Henry the Eighth, his exercising that authority by proclamations and edicts, could not, strictly speaking, be termed unconstitutional, for under the act of parliament his will was made the law, and

therefore his will became in that respect the constitution itself. But were we to ask some politicians who have taken a faint and inaccurate view of our establishments, where does this supreme power reside in the United States? they would probably answer, in their Constitutions. This, however, though a step nearer to the fact, is not a just opinion; for, in truth, it remains and flourishes with the people, and under the influence of that truth we, at this moment, sit, deliberate and speak. In other countries, indeed, the revolutions of government are connected with war, and all its concomitant calamities. But with us, they are considered as the means of obtaining a superior knowledge of the nature of government, and of accomplishing its end. That the supreme power, therefore, should be vested in the people, is, in my judgment, the great panacea of human politics. It is a power paramount to every constitution, inalienable in its nature, and indefinite in its extent. For, I insist, if there are errors in government, the people have the right not only to correct and amend them, but likewise totally to change and reject its form; and under the operation of that right, the citizens of the United States can never be wretched beyond retrieve, unless they are wanting to themselves.

Then let us examine, Mr. President, the three species of simple governments, which, as I have already mentioned, are the monarchical, aristocratical and democratical. In a monarchy, the supreme power is vested in a single person; in an aristocracy, it is possessed by a body, not formed upon the principle of representation, but enjoying their station by descent, by election among themselves, or in right of some personal or territorial qualification; and, lastly, in a democracy, it is inherent in the people, and is either exercised by themselves or by their representatives. Each of these systems has its advantages and its disadvantages. The advantages of a monarchy are strength, dispatch and unity; its disadvantages are expense, tyranny and war. The advantages of an aristocracy are experience, and the wisdom resulting from education; its disadvantages are the dissension of the governors, and the oppression of the people. The advantages of a democracy are liberty, caution, industry, fidelity, and an opportunity of bringing forward the talents and abilities of the citizens, without regard to birth or

fortune; its disadvantages are dissension and imbecility, for the assent of many being required, their exertions will be feeble, and their counsels too soon discovered.

To obtain all the advantages, and to avoid all the inconveniences of these governments, was the leading object of the late Convention. Having, therefore, considered the formation and principles of other systems, it is natural to inquire of what description is the Constitution before us? In its principles, Sir, it is purely democratical; varying indeed, in its form, in order to admit all the advantages, and to exclude all the disadvantages which are incidental to the known and established constitutions of government. But when we take an extensive and accurate view of the streams of power that appear through this great and comprehensive plan,—when we contemplate the variety of their directions, the force and dignity of their currents,—when we behold them intersecting, embracing, and surrounding the vast possessions and interests of the continent, and when we see them distributing on all hands, beauty, energy and riches, still, however numerous and wide their courses, however diversified and remote the blessings they diffuse, we shall be able to trace them all to one great and noble source—*the People.*

Such, Mr. President, are the general observations with which I have thought necessary to trouble you. In discussing the distinct propositions of the Federal plan, I shall have occasion to apply them more particularly to that subject, but at present, I shall conclude with requesting the pardon of the Convention for having so long intruded upon their patience.

BRUTUS.—No. I.

When the public is called to investigate and decide upon a question in which not only the present members of the community are deeply interested, but upon which the happiness and misery of generations yet unborn is in great measure suspended, the benevolent mind cannot help feeling itself peculiarly interested in the result.

In this situation, I trust the feeble efforts of an individual, to lead the minds of the people to a wise and prudent determination, cannot fail of being acceptable to the candid and dispassionate part of the community. Encouraged by this consideration, I have been induced to offer my thoughts upon the present important crisis of our public affairs.

Perhaps this country never saw so critical a period in their political concerns. We have felt the feebleness of the ties by which these United States are held together, and the want of sufficient energy in our present Confederation, to manage, in some instances, our general concerns. Various expedients have been proposed to remedy these evils, but none have succeeded. At length a Convention of the States has been assembled, they have formed a Constitution which will now, probably, be submitted to the people to ratify or reject, who are the fountain of all power, to whom alone it of right belongs to make or unmake constitutions or forms of government, at their pleasure. The most important question that was ever proposed to the decision of any people under heaven, is before you, and you are to decide upon it by men of your own election, chosen specially for this purpose. If the Constitution, offered to your acceptance, be a wise one, calculated to preserve the invaluable blessings of liberty, to secure the inestimable rights of mankind, and promote human happiness, then, if you accept it, you will lay a lasting foundation of happiness for millions yet unborn; generations to come will rise up and call you blessed. You may rejoice in the prospects of this vast extended continent becoming filled with freemen, who will assert the dignity of human nature. You may solace yourselves with the idea, that society, in this favored land, will fast advance to the highest point of perfection; the human mind will expand in knowledge and virtue, and the golden age be, in some measure, realized. But if, on the other hand, this form of government contains principles that will lead to the subversion of liberty—if it tends to establish a despotism, or, what is worse, a tyrannic aristocracy; then, if you adopt it, this only remaining asylum for liberty will be shut up, and posterity will execrate your memory.

Momentous then is the question you have to determine, and you are called upon by every motive which should influence a

noble and virtuous mind, to examine it well, and to make up a wise judgment. It is insisted, indeed, that this Constitution must be received, be it ever so imperfect. If it has its defects, it is said, they can be best amended when they are experienced. But remember, when the people once part with power, they can seldom or never resume it again but by force. Many instances can be produced in which the people have voluntarily increased the powers of their rulers; but few, if any, in which rulers have willingly abridged their authority. This is a sufficient reason to induce you to be careful, in the first instance, how you deposit the powers of government.

With these few introductory remarks, I shall proceed to a consideration of this Constitution.

The first question that presents itself on the subject is, whether a confederated government be the best for the United States or not? Or in other words, whether the thirteen United States should be reduced to one great republic, governed by one legislature, and under the direction of one executive and judiciary; or whether they should continue thirteen confederated republics, under the direction and control of a supreme Federal head for certain defined, national purposes only?

This inquiry is important, because, although the government reported by the Convention does not go to a perfect and entire consolidation, yet it approaches so near to it, that it must, if executed, certainly and infallibly terminate in it.

This government is to possess absolute and uncontrollable powers, legislative, executive and judicial, with respect to every object to which it extends, for by the last clause of section eighth, article first, it is declared, that the Congress shall have power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or office thereof." And by the sixth article, it is declared, "that this Constitution, and the laws of the United States, which shall be made in pursuance thereof, and the treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, any thing in the Constitution or law of any State to the con-

trary notwithstanding." It appears from these articles, that there is no need of any intervention of the State governments, between the Congress and the people, to execute any one power vested in the general government, and that the Constitution and laws of every State are nullified and declared void, so far as they are or shall be inconsistent with this Constitution, or the laws made in pursuance of it, or with treaties made under the authority of the United States. The government, then, so far as it extends, is a complete one, and not a confederation. It is as much one complete government as that of New York or Massachusetts; has as absolute and perfect powers to make and execute all laws, to appoint officers, institute courts, declare offences, and annex penalties, with respect to every object to which it extends, as any other in the world. So far, therefore, as its powers reach, all ideas of confederation are given up and lost. It is true this government is limited to certain objects, or to speak more properly, some small degree of power is still left to the States; but a little attention to the powers vested in the general government, will convince every candid man, that if it is capable of being executed, all that is reserved for the individual States must very soon be annihilated, except so far as they are barely necessary to the organization of the general government. The powers of the general legislature extend to every case that is of the least importance—there is nothing valuable to human nature, nothing dear to freemen, but what is within its power. It has authority to make laws which will affect the lives, the liberty, and property of every man in the United States; nor can the Constitution or laws of any State, in any way prevent or impede the full and complete execution of every power given. The legislative power is competent to lay taxes, duties, imposts, and excises;—there is no limitation to this power, unless it be said that the clause which directs the use to which those taxes and duties shall be applied, may be said to be a limitation; but this is no restriction of the power at all, for by this clause they are to be applied to pay the debts and provide for the common defence and general welfare of the United States; but the legislature have authority to contract debts at their discretion; they are the sole judges of what is necessary to provide for the common defence, and they only are

to determine what is for the general welfare: this power, therefore, is neither more nor less than a power to lay and collect taxes, imposts, and excises, at their pleasure; not only the power to lay taxes unlimited, as to the amount they may require, but it is perfect and absolute to raise them in any mode they please. No State legislature, or any power in the State governments, have any more to do in carrying this into effect than the authority of one State has to do with that of another. In the business, therefore, of laying and collecting taxes, the idea of confederation is totally lost, and that of one entire republic is embraced. It is proper here to remark, that the authority to lay and collect taxes is the most important of any power that can be granted; it connects with it almost all other powers, or at least will in process of time draw all others after it; it is the great mean of protection, security, and defence, in a good government, and the great engine of oppression and tyranny in a bad one. This cannot fail of being the case, if we consider the contracted limits which are set by this Constitution, to the State governments, on this article of raising money. No State can emit paper money, lay any duties or imposts, on imports, or exports, but by consent of the Congress; and then the net produce shall be for the benefit of the United States: the only means, therefore, left for any State to support its government and discharge its debts, is by direct taxation; and the United States have also power to lay and collect taxes, in any way they please. Every one who has thought on the subject, must be convinced that but small sums of money can be collected in any country, by direct tax; when the Federal government begins to exercise the right of taxation in all its parts, the legislatures of the several States will find it impossible to raise moneys to support their governments. Without money they cannot be supported, and they must dwindle away, and, as before observed, their powers be absorbed in that of the general government.

It might be here shown, that the power in the Federal legislature, to raise and support armies at pleasure, as well in peace as in war, and their control over the militia, tend not only to a consolidation of the government, but the destruction of liberty. I shall not, however, dwell upon these, as a few observations

upon the judicial power of this government, in addition to the preceding, will fully evince the truth of the position.

The judicial power of the United States is to be vested in a supreme court, and in such inferior courts as Congress may, from time to time, ordain and establish. The powers of these courts are very extensive; their jurisdiction comprehends all civil causes, except such as arise between citizens of the same State; and it extends to all cases in law and equity arising under the Constitution. One inferior court must be established, I presume, in each State, at least, with the necessary executive officers appendant thereto. It is easy to see, that in the common course of things, these courts will eclipse the dignity, and take away from the respectability, of the State courts. These courts will be, in themselves, totally independent of the States, deriving their authority from the United States, and receiving from them fixed salaries; and in the course of human events it is to be expected, that they will swallow up all the powers of the courts in the respective States.

How far the clause in the eighth section of the first article may operate to do away all idea of Confederated States, and to effect an entire consolidation of the whole into one general government, it is impossible to say. The powers given by this article are very general and comprehensive, and it may receive a construction to justify the passing almost any law. A power to make all laws, which shall be *necessary and proper*, for carrying into execution all powers vested by the Constitution in the government of the United States, or any department or officer thereof, is a power very comprehensive and definite, and may, for aught I know, be exercised in such manner as entirely to abolish the State legislatures. Suppose the legislature of a State should pass a law to raise money to support their government and pay the State debt; may the Congress repeal this law, because it may prevent the collection of a tax which they may think proper and necessary to lay, to provide for the general welfare of the United States? For all laws made, in pursuance of this Constitution, are the supreme law of the land, and the judges in every State shall be bound thereby, any thing in the Constitution or laws of the different States to the contrary notwithstanding. By such a law, the government of a particular

State might be overturned at one stroke, and thereby be deprived of every means of its support.

It is not meant, by stating this case, to insinuate that the Constitution would warrant a law of this kind! or unnecessarily to alarm the fears of the people, by suggesting that the Federal legislature would be more likely to pass the limits assigned them by the Constitution, than that of an individual State, further than they are less responsible to the people. But what is meant is, that the legislature of the United States are vested with the great and uncontrollable powers of laying and collecting taxes, duties, imposts, and excises; of regulating trade, raising and supporting armies, organizing, arming, and disciplining the militia, instituting courts, and other general powers; and are by this clause invested with the power of making all laws, proper and necessary, for carrying all these into execution; and they may so exercise this power as entirely to annihilate all the State governments, and reduce this country to one single government. And if they may do it, it is pretty certain they will; for it will be found that the power retained by individual States, small as it is, will be a clog upon the wheels of the government of the United States; the latter, therefore, will be naturally inclined to remove it out of the way. Besides, it is a truth confirmed by the unerring experience of ages, that every man, and every body of men, invested with power, are ever disposed to increase it, and to acquire a superiority over every thing that stands in their way. This disposition, which is implanted in human nature, will operate in the Federal legislature to lessen and ultimately to subvert the State authority, and having such advantages, will most certainly succeed, if the Federal government succeeds at all. It must be very evident, then, that what this Constitution wants of being a complete consolidation of the several parts of the Union into one complete government, possessed of perfect legislative, judicial, and executive powers, to all intents and purposes, it will necessarily acquire in its exercise in operation.

Let us now proceed to inquire, as I at first purposed, whether it be best the thirteen United States should be reduced to one great republic, or not? It is here taken for granted, that all agree in this, that whatever government we adopt, it ought to

be a free one; that it should be so framed as to secure the liberty of the citizens of America, and such an one as to admit of a full, fair, and equal representation of the people. The question, then, will be, whether a government thus constituted, and founded on such principles, is practicable, and can be exercised over the whole United States, reduced into one State?

If respect is to be paid to the opinion of the greatest and wisest men who have ever thought or wrote on the science of government, we shall be constrained to conclude, that a free republic cannot succeed over a country of such immense extent, containing such a number of inhabitants, and these increasing in such rapid progression, as that of the whole United States. Among the many illustrious authorities which might be produced to this point, I shall content myself with quoting only two. The one is the Baron De Montesquieu, Spirit of Laws, Chap. xvi., Vol. 1. "It is natural to a republic to have only a small territory, otherwise it cannot long subsist. In a large republic there are men of large fortunes, and consequently of less moderation; there are trusts too great to be placed in any single subject; he has interest of his own; he soon begins to think that he may be happy, great and glorious, by oppressing his fellow-citizens; and that he may raise himself to grandeur on the ruins of his country. In a large republic, the public good is sacrificed to a thousand views; it is subordinate to exceptions, and depends on accidents. In a small one, the interest of the public is easier perceived, better understood, and more within the reach of every citizen; abuses are of less extent, and of course are less protected." Of the same opinion is the Marquis Beccarari.

History furnishes no example of a free republic, any thing like the extent of the United States. The Grecian republics were of small extent; so also was that of the Romans. Both of these, it is true, in process of time, extended their conquests over large territories of country; and the consequence was, that their governments were changed from that of free governments to those of the most tyrannical that ever existed in the world.

Not only the opinion of the greatest men, and the experience of mankind, are against the idea of an extensive republic, but a variety of reasons may be drawn from the reason and nature of

things, against it. In every government the will of the sovereign is the law. In despotic governments, the supreme authority being lodged in one, his will is law, and can be as easily expressed to a large, extensive territory as to a small one. In a pure democracy, the people are the sovereign, and their will is declared by themselves; for this purpose they must all come together to deliberate and decide. This kind of government cannot be exercised, therefore, over a country of any considerable extent; it must be confined to a single city, or at least limited to such bounds as that the people can conveniently assemble, be able to debate, understand the subject submitted to them, and declare their opinion concerning it.

In a free republic, although all laws are derived from the consent of the people, yet the people do not declare their consent by themselves in person, but by representatives, chosen by them, who are supposed to know the minds of their constituents, and to be possessed of integrity to declare this mind.

In every free government, the people must give their assent to the laws by which they are governed. This is the true criterion between a free government and an arbitrary one. The former are ruled by the will of the whole, expressed in any manner they may agree upon; the latter by the will of one, or a few. If the people are to give their assent to the laws, by persons chosen and appointed by them, the manner of the choice and the number chosen must be such as to possess, be disposed, and consequently qualified to declare the sentiments of the people; for if they do not know, or are not disposed to speak the sentiments of the people, the people do not govern, but the sovereignty is in a few. Now, in a large, extended country, it is impossible to have a representation possessing the sentiments, and of integrity to declare the minds of the people, without having it so numerous and unwieldy as to be subject, in great measure, to the inconveniency of a democratic government.

The territory of the United States is of vast extent; it now contains near three millions of souls, and is capable of containing much more than ten times that number. Is it practicable for a country, so large and numerous as they will soon become, to elect a representation that will speak their sentiments, without

their becoming so numerous as to be incapable of transacting public business? It certainly is not.

In a republic, the manners, sentiments and interests of the people should be similar. If this be not the case, there will be a constant clashing of opinions; and the representatives of one part will be continually striving against those of the other. This will retard the operations of government, and prevent such conclusions as will promote the public good. If we apply this remark to the condition of the United States, we shall be convinced that it forbids that we should be one government. The United States includes a variety of climates. The productions of the different parts of the Union are very variant, and their interests, of consequence, diverse. Their manners and habits differ as much as their climates and productions; and their sentiments are by no means coincident. The laws and customs of the several States are, in many respects, very diverse, and in some opposite; each would be in favor of its own interests and customs; and, of consequence, a legislature, formed of representatives from the respective parts, would not only be too numerous to act with any care or decision, but would be composed of such heterogeneous and discordant principles, as would constantly be contending with each other.

The laws cannot be executed in a republic of an extent equal to that of the United States, with promptitude.

The magistrates in every government must be supported in the execution of the laws, either by an armed force, maintained at the public expense for that purpose, or by the people turning out to aid the magistrate upon his command, in case of resistance.

In despotic governments, as well as in all the monarchies of Europe, standing armies are kept up to execute the commands of the prince or the magistrate, and are employed for this purpose when occasion requires; but they have always proved the destruction of liberty, and are abhorrent to the spirit of a free republic. In England, where they depend upon the parliament for their annual support, they have always been complained of as oppressive and unconstitutional, and are seldom employed in executing the laws; never except on extraordinary occasions, and then under the direction of a civil magistrate.

A free republic will never keep a standing army to execute its laws. It must depend upon the support of its citizens. But when a government is to receive its support from the aid of the citizens, it must be so constructed as to have the confidence, respect, and affection of the people. Men who, upon the call of the magistrate, offer themselves to execute the laws, are influenced to do it either by affection to the government, or from fear; where a standing army is at hand to punish offenders, every man is actuated by the latter principle, and therefore, when the magistrate calls, will obey; but, where this is not the case, the government must rest for its support upon the confidence and respect which the people have for their government and laws. The body of the people being attached, the government will always be sufficient to support and execute its laws, and to operate upon the fears of any faction which may be opposed to it, not only to prevent any opposition to the execution of the laws themselves, but also to compel the most of them to aid the magistrate; but the people will not be likely to have such confidence in their rulers, in a republic so extensive as the United States, as is necessary for these purposes. The confidence which the people have in their rulers, in a free republic, arises from their knowing them, from their being responsible to them for their conduct, and from the power they have of displacing them when they misbehave; but in a republic of the extent of this continent, the people in general would be acquainted with very few of their rulers; the people at large would know little of their proceedings, and it would be extremely difficult to change them. The people in Georgia and New Hampshire would not know one another's mind, and therefore could not act in concert to enable them to effect a general change of representatives. The different parts of so extensive a country could not possibly be made acquainted with the conduct of their representatives, nor be informed of the reasons upon which measures were founded. The consequence will be, they will have no confidence in their legislature, suspect them of ambitious views, be jealous of every measure they adopt, and will not support the laws they pass. Hence the government will be nerveless and inefficient, and no way will be left to render it otherwise, but by establishing an armed force to execute the

laws at the point of the bayonet—a government of all others the most to be dreaded.

In a republic of such vast extent as the United States, the legislature cannot attend to the various concerns and wants of its different parts. It cannot be sufficiently numerous to be acquainted with the local condition and wants of the different districts, and if it could, it is impossible it should have sufficient time to attend to and provide for all the variety of cases of this nature that would be continually arising.

In so extensive a republic, the great officers of government would soon become above the control of the people, and abuse their powers to the purpose of aggrandizing themselves, and oppressing them. The trust committed to the executive offices, in a country of the extent of the United States, must be various and of magnitude. The command of all the troops and navy of the republic, the appointment of officers, the power of pardoning offences, the collecting of all the public revenues, and the power of expending them, with a number of other powers, must be lodged and exercised in every State, in the hands of a few. When these are attended with great honor and emolument, as they always will be in large States, so as greatly to interest men to pursue them, and to be proper objects for ambitious and designing men, such men will be ever restless in their pursuit after them. They will use the power, when they have acquired it, to the purposes of gratifying their own interest and ambition, and it is scarcely possible, in a very large republic, to call them to account for their misconduct, or to prevent their abuse of power.

These are some of the reasons by which it appears, that a free republic cannot long subsist over a country of the great extent of these States. If then this new Constitution is calculated to consolidate the thirteen States into one, as it evidently is, it ought not to be adopted.

Though I am of opinion, that it is a sufficient objection to this government, to reject it, that it creates the whole Union into one government under the form of a republic, yet if this objection was obviated, there are exceptions to it which are so material and fundamental, that they ought to determine every man, who is a friend to the liberty and happiness of mankind,

not to adopt it. I beg the candid and dispassionate attention of my countrymen, while I state these objections—they are such as have obtruded themselves upon my mind upon a careful attention to the matter, and such as I sincerely believe are well founded. There are many objections, of small moment, of which I shall take no notice. Perfection is not to be expected in any thing that is the production of man, and if I did not in my conscience believe that this scheme was defective in the fundamental principles—in the foundation upon which a free and equal government must rest—I would hold my peace.

BRUTUS.

BRUTUS.—No. II.

I flatter myself that my last address established this position, that to reduce the thirteen States into one government, would prove the destruction of our liberties.

But lest this truth should be doubted by some, I will now proceed to consider its merits.

Though it should be admitted, that the arguments against reducing all the States into one consolidated government, are not sufficient fully to establish this point, yet they will, at least, justify this conclusion, that in forming a Constitution for such a country, great care should be taken to limit and define its powers, adjust its parts, and guard against an abuse of authority. How far attention has been paid to these objects, shall be the subject of future inquiry. When a building is to be erected which is intended to stand for ages, the foundation should be firmly laid. The Constitution proposed to your acceptance is designed, not for yourselves alone, but for generations yet unborn. The principles, therefore, upon which the social compact is founded, ought to have been clearly and precisely stated, and the most express and full declaration of rights to have been made. But on this subject there is almost an entire silence.

If we may collect the sentiments of the people of America, from their own most solemn declarations, they hold this truth as

self-evident, that all men are by nature free. No one man, therefore, or any class of men, have a right, by the law of nature, or of God, to assume or exercise authority over their fellows. The origin of society, then, is to be sought, not in any natural right which one man has to exercise authority over another, but in the united consent of those who associate. The mutual wants of men at first dictated the propriety of forming societies; and when they were established, protection and defence pointed out the necessity of instituting government. In a state of nature every individual pursues his own interest; in this pursuit it frequently happened, that the possessions or enjoyments of one were sacrificed to the views and designs of another; thus the weak were a prey to the strong, the simple and unwary were subject to impositions from those who were more crafty and designing. In this state of things, every individual was insecure; common interest, therefore, directed that government should be established, in which the force of the whole community should be collected, and under such directions, as to protect and defend every one who com posed it. The common good, therefore, is the end of civil government, and common consent, the foundation on which it is established. To effect this end, it was necessary that a certain portion of natural liberty should be surrendered, in order that what remained should be preserved. How great a proportion of natural freedom is necessary to be yielded by individuals, when they submit to government, I shall not inquire. So much, however, must be given, as will be sufficient to enable those to whom the administration of the government is committed, to establish laws for the promoting the happiness of the community, and to carry those laws into effect. But it is not necessary, for this purpose, that individuals should relinquish all their natural rights. Some are of such a nature that they cannot be surrendered. Of this kind are the rights of conscience, the right of enjoying and defending life, &c. Others are not necessary to be resigned in order to attain the end for which government is instituted, these therefore ought not to be given up. To surrender them, would counteract the very end of government, to wit, the common good. From these observations it appears, that in forming a government on its true principles, the founda-

tion should be laid in the manner I before stated, by expressly reserving to the people such of their essential rights as are not necessary to be parted with. The same reasons which at first induced mankind to associate and institute government, will operate to influence them to observe this precaution. If they had been disposed to conform themselves to the rule of immutable righteousness, government would not have been requisite. It was because one part exercised fraud, oppression and violence on the other, that men came together, and agreed that certain rules should be formed to regulate the conduct of all, and the power of the whole community lodged in the hands of rulers to enforce an obedience to them. But rulers have the same propensities as other men; they are as likely to use the power with which they are vested, for private purposes, and to the injury and oppression of those over whom they are placed, as individuals in a state of nature are to injure and oppress one another. It is therefore as proper that bounds should be set to their authority, as that government should have at first been instituted to restrain private injuries.

This principle, which seems so evidently founded in the reason and nature of things, is confirmed by universal experience. Those who have governed, have been found in all ages ever active to enlarge their powers and abridge the public liberty. This has induced the people in all countries, where any sense of freedom remained, to fix barriers against the encroachments of their rulers. The country from which we have derived our origin, is an eminent example of this. Their magna charta and bill of rights have long been the boast, as well as the security of that nation. I need say no more, I presume, to an American, than that this principle is a fundamental one, in all the Constitutions of our own States; there is not one of them but what is either founded on a declaration or bill of rights, or has certain express reservation of rights interwoven in the body of them. From this it appears, that at a time when the pulse of liberty beat high, and when an appeal was made to the people to form Constitutions for the government of themselves, it was their universal sense, that such declarations should make a part of their frames of government. It is, therefore, the more aston-

ishing, that this grand security to the rights of the people is not to be found in this Constitution.

It has been said, in answer to this objection, that such declaration of rights, however requisite they might be in the Constitutions of the States, are not necessary in the general Constitution, because, "in the former case, every thing which is not reserved is given; but in the latter, the reverse of the proposition prevails, and every thing which is not given is reserved." It requires but little attention to discover, that this mode of reasoning is rather specious than solid. The powers, rights and authority, granted to the general government by this Constitution, are as complete, with respect to every object to which they extend, as that of any State government—it reaches to every thing which concerns human happiness—life, liberty, and property are under its control. There is the same reason, therefore, that the exercise of power, in this case, should be restrained within proper limits, as in that of the State governments. To set this matter in a clear light, permit me to instance some of the articles of the bills of rights of the individual States, and apply them to the case in question.

For the security of life, in criminal prosecutions, the bills of rights of most of the States have declared, that no man shall be held to answer for a crime until he is made fully acquainted with the charge brought against him; he shall not be compelled to accuse, or furnish evidence against himself—the witnesses against him shall be brought face to face, and he shall be fully heard by himself or counsel. That it is essential to the security of life and liberty, that trial of facts be in the vicinity where they happen. Are not provisions of this kind as necessary in the general government, as in that of a particular State? The powers vested in the new Congress extend in many cases to life; they are authorized to provide for the punishment of a variety of capital crimes, and no restraint is laid upon them in its exercise, save only, that "the trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be in the State where the said crimes shall have been committed." No man is secure of a trial in the county where he is charged to have committed a crime; he may be brought from Niagara to New York, or carried from Kentucky to Richmond for trial for

an offence supposed to be committed. What security is there, that a man shall be furnished with a full and plain description of the charges against him? That he shall be allowed to produce all proof he can in his favor? That he shall see the witnesses against him face to face, or that he shall be fully heard in his own defence by himself or counsel?

For the security of liberty it has been declared, "that excessive bail should not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted. That all warrants, without oath or affirmation, to search suspected places, or seize any person, his papers or property, are grievous and oppressive."

These provisions are as necessary under the general government as under that of the individual States; for the power of the former is as complete to the purpose of requiring bail, imposing fines, inflicting punishments, granting search warrants, and seizing persons, papers, or property, in certain cases, as the other.

For the purpose of securing the property of the citizens, it is declared by all the States, "that in all controversies at law, respecting property, the ancient mode of trial by jury is one of the best securities of the rights of the people, and ought to remain sacred and inviolable."

Does not the same necessity exist of reserving this right under their national compact, as in that of the States? Yet nothing is said respecting it. In the bills of rights of the States it is declared, that a well regulated militia is the proper and natural defence of a free government; that as standing armies in time of peace are dangerous, they are not to be kept up, and that the military should be kept under strict subordination to, and controlled by, the civil power.

The same security is as necessary in this Constitution, and much more so; for the general government will have the sole power to raise and to pay armies, and are under no control in the exercise of it; yet nothing of this is to be found in this new system.

I might proceed to instance a number of other rights, which were as necessary to be reserved, such as, that elections should be free, that the liberty of the press should be held sacred; but

the instances adduced are sufficient to prove that this argument is without foundation. Besides, it is evident that the reason here assigned was not the true one, why the framers of this Constitution omitted a bill of rights; if it had been, they would not have made certain reservations, while they totally omitted others of more importance. We find they have, in the ninth section of the first article declared, that the writ of *habeas corpus* shall not be suspended, unless in cases of rebellion,—that no bill of attainder, or *ex post facto* law, shall be passed,—that no title of nobility shall be granted by the United States, &c. If every thing which is not given is reserved, what propriety is there in these exceptions? Does this Constitution any where grant the power of suspending the *habeas corpus*, to make *ex post facto* laws, pass bills of attainder, or grant titles of nobility? It certainly does not in express terms. The only answer that can be given is, that these are implied in the general powers granted. With equal truth it may be said, that all the powers which the bills of rights guard against the abuse of, are contained or implied in the general ones granted by this Constitution.

So far is it from being true, that a bill of rights is less necessary in the general Constitution than in those of the States, the contrary is evidently the fact. This system, if it is possible for the people of America to accede to it, will be an original compact; and being the last, will, in the nature of things, vacate every former agreement inconsistent with it. For it being a plan of government received and ratified by the whole people, all other forms which are in existence at the time of its adoption, must yield to it. This is expressed in positive and unequivocal terms in the sixth article: "That this Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, any thing in the Constitution, or laws of any State, to the contrary notwithstanding."

"The senators and representatives before-mentioned, and the members of the several State legislatures, and all executive and judicial officers, both of the United States, and of the several

States, shall be bound, by oath or affirmation, to support this Constitution."

It is therefore not only necessarily implied thereby, but positively expressed, that the different State Constitutions are repealed and entirely done away, so far as they are inconsistent with this, with the laws which shall be made in pursuance thereof, or with treaties made, or which shall be made, under the authority of the United States. Of what avail will the Constitutions of the respective States be to preserve the rights of its citizens? Should they be plead, the answer would be, the Constitution of the United States, and the laws made in pursuance thereof, is the supreme law, and all legislatures and judicial officers, whether of the General or State governments, are bound by oath to support it. No privilege, reserved by the bills of rights, or secured by the State governments, can limit the power granted by this, or restrain any laws made in pursuance of it. It stands, therefore, on its own bottom, and must receive a construction by itself, without any reference to any other. And hence it was of the highest importance, that the most precise and express declarations and reservations of rights should have been made.

This will appear the more necessary, when it is considered, that not only the Constitution and laws made in pursuance thereof, but all treaties made, under the authority of the United States, are the supreme law of the land, and supersede the Constitutions of all the States. The power to make treaties, is vested in the president, by and with the advice and consent of two-thirds of the senate. I do not find any limitation or restriction to the exercise of this power. The most important article in any Constitution may therefore be repealed, even without a legislative act. Ought not a government, vested with such extensive and indefinite authority, to have been restricted by a declaration of rights? It certainly ought.

So clear a point is this, that I cannot help suspecting that persons who attempt to persuade people that such reservations were less necessary under this Constitution than under those of the States, are wilfully endeavoring to deceive, and to lead you into an absolute state of vassalage.

BRUTUS.

BRUTUS.—No. III.

In the investigation of the Constitution, under your consideration, great care should be taken that you do not form your opinions respecting it from unimportant provisions, or fallacious appearances.

On a careful examination, you will find that many of its parts, of little moment, are well formed; in these it has a specious resemblance of a free government, but this is not sufficient to justify the adoption of it; the gilded pill is often found to contain the most deadly poison.

You are not, however, to expect a perfect form of government, any more than to meet with perfection in man; your views, therefore, ought to be directed to the main pillars upon which a free government is to rest; if these are well placed, on a foundation that will support the superstructure, you should be satisfied, although the building may want a number of ornaments, which, if your particular tastes were gratified, you would have added to it. On the other hand, if the foundation is insecurely laid, and the main supports are wanting, or not properly fixed, however the fabric may be decorated and adorned, you ought to reject it.

Under these impressions, it has been my object to turn your attention to the principal defects in this system.

I have attempted to show, that a consolidation of this extensive continent, under one government, for internal as well as external purposes, which is evidently the tendency of this Constitution, cannot succeed without a sacrifice of your liberties; and therefore that the attempt is not only preposterous, but extremely dangerous; and I have shown, independent of this, that the plan is radically defective in a fundamental principle, which ought to be found in every free government, to wit, a declaration of rights.

I shall now proceed to take a nearer view of this system, to examine its parts more minutely, and show that the powers are not properly deposited for the security of public liberty.

The first important object that presents itself in the organization of this government, is the legislature. This is to be

composed of two branches—the first to be called the general assembly, and is to be chosen by the people of the respective States, in proportion to the number of their inhabitants, and is to consist of sixty-five members, with powers in the legislature to increase the number, not to exceed one for every thirty thousand inhabitants. The second branch is to be called the senate, and is to consist of twenty-six members, two of which are to be chosen by the legislatures of each of the States.

In the former of these there is an appearance of justice, in the appointment of its members; but if the clause which provides for this branch be stripped of its ambiguity, it will be found that there is really no equality of representation, even in this house.

The words are, "representatives and direct taxes shall be apportioned among the several States, which may be included in this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons." What a strange and unnecessary accumulation of words are here used to conceal from the public eye what might have been expressed in the following concise manner: Representatives are to be proportioned among the States respectively, according to the number of freemen and slaves inhabiting them, counting five slaves for three free men.

"In a free state," says the celebrated Montesquieu, "every man, who is supposed to be a free agent, ought to be concerned in his own government, therefore the legislature should reside in the whole body of the people, or their representatives." But it has never been alleged that those who are not free agents, can, upon any rational principle, have any thing to do in government, either by themselves or others. If they have no share in government, why is the number of members in the assembly to be increased on their account? Is it because in some of the States, a considerable part of the property of the inhabitants consists in a number of their fellow-men, who are held in bondage, in defiance of every idea of benevolence, justice and religion, and contrary to all the principles of liberty which have been publicly avowed in the late glorious Revolution? If this be a

just ground for representation, the horses in some of the States, and the oxen in others, ought to be represented—for a great share of property in some of them consists in these animals; and they have as much control over their own actions as these poor unhappy creatures, who are intended to be described in the above recited clause, by the words, "all other persons." By this mode of apportionment, the representatives of the different parts of the Union will be extremely unequal; in some of the Southern States the slaves are nearly equal in number to the free men; and for all these slaves they will be entitled to a proportionate share in the legislature; this will give them an unreasonable weight in the government, which can derive no additional strength, protection, nor defence from the slaves, but the contrary. Why, then, should they be represented? What adds to the evil is, that these States are to be permitted to continue the inhuman traffic of importing slaves until the year 1808—and for every cargo of these unhappy people which unfeeling, unprincipled, barbarous and avaricious wretches may tear from their country, friends and tender connections, and bring into those States, they are to be rewarded by having an increase of members in the general assembly. There appears, at the first view, a manifest inconsistency, in the apportionment of representatives in the senate, upon the plan of a consolidated government. On every principle of equity and propriety, representation in a government should be in exact proportion to the numbers, or the aids afforded by the persons represented. How unreasonable and unjust then is it, that Delaware should have a representation in the senate equal to Massachusetts or Virginia? The latter of which contains ten times her numbers, and is to contribute to the aid of the general government in that proportion? This article of the Constitution will appear the more objectionable, if it is considered, that the powers vested in this branch of the legislature are very extensive, and greatly surpass those lodged in the assembly, not only for general purposes, but, in many instances, for the internal police of the States. The other branch of the legislature, in which, if in either, a faint spark of democracy is to be found, should have been properly organized and established; but upon examination you will find, that this branch does not possess the qualities of a

just representation, and that there is no kind of security, imperfect as it is, for its remaining in the hands of the people.

It has been observed, that the happiness of society is the end of government—that every free government is founded in compact; and that, because it is impracticable for the whole community to assemble, or when assembled, to deliberate with wisdom and decide with dispatch, the mode of legislating by representation was devised.

The very term, representative, implies that the person or body chosen for this purpose, should resemble those who appoint them. A representation of the people of America, if it be a true one, must be like the people. It ought to be so constituted, that a person who is a stranger to the country, might be able to form a just idea of their character by knowing that of their representatives. They are the sign—the people are the thing signified. It is absurd to speak of one thing being the representative of another, upon any other principle. The ground and reason of representation, in a free government, implies the same thing. Society instituted government to promote the happiness of the whole, and this is the great end always in view in the delegation of powers. It must then have been intended, that those who are placed instead of the people, should possess their sentiments and feelings, and be governed by their interests, or, in other words, should bear the strongest resemblance of those in whose room they are substituted. It is obvious, that for an assembly to be a true likeness of the people of any country, they must be considerably numerous. One man, or a few men, cannot possibly represent the feelings, opinions, and characters of a great multitude. In this respect, the new Constitution is radically defective. The house of assembly, which is intended as a representation of the people of America, will not, nor cannot, in the nature of things, be a proper one. Sixty-five men cannot be found in the United States who hold the sentiments, possess the feelings, or are acquainted with the wants and interests of this vast country. This extensive continent is made up of a number of different classes of people; and to have a proper representation of them, each class ought to have an opportunity of choosing their best informed men for the purpose; but this cannot possibly be the case in so small a number. The State of New York,

on the present apportionment, will send six members to the assembly; I will venture to affirm that number cannot be found in the State, who will bear a just resemblance to the several classes of people who compose it. In this assembly, the farmer, merchant, mechanic, and other various orders of people, ought to be represented according to their respective weight and numbers; and the representatives ought to be intimately acquainted with the wants, understand the interests of the several orders in the society, and feel a proper sense and becoming zeal to promote their prosperity. I cannot conceive that any six men in this State can be found properly qualified in these respects to discharge such important duties; but, supposing it possible to find them, is there the least degree of probability that the choice of the people will fall upon such men? According to the common course of human affairs, the natural aristocracy of the country will be elected. Wealth always creates influence, and this is generally much increased in large family connections; this class in society will for ever have a great number of dependents; besides, they will always favor each other. It is their interest to combine—they will therefore constantly unite their efforts to procure men of their own rank to be elected; they will concentre all their force in every part of the State into one point, and by acting together, will most generally carry their election. It is probable that but few of the merchants, and those of the most opulent and ambitious, will have a representation from their body—few of them are characters sufficiently conspicuous to attract the notice of the electors of the State in so limited a representation. The great body of the yeomen of the country cannot expect any of their order in this assembly—the station will be too elevated for them to aspire to—the distance between the people and their representatives will be so very great, that there is no probability that a farmer, however respectable, will be chosen. The mechanics, of every branch, must expect to be excluded from a seat in this body; it will and must be esteemed a station too high and exalted to be filled by any but the first men in the State, in point of fortune; so that in reality there will be no part of the people represented but the rich, even in that branch of the legislature which is called the democratic. The well-born, and highest orders in life, as they term them-

selves, will be ignorant of the sentiments of the middling class of citizens, strangers to their ability, wants and difficulties, and void of sympathy and fellow feeling. This branch of the legislature will not only be an imperfect representation, but there will be no security in so small a body against bribery and corruption. It will consist at first, of sixty-five, and can never exceed one for every thirty thousand inhabitants. A majority of these, that is, thirty-three, are a quorum, and a majority of which, or seventeen, may pass any law. A majority of the senate, or fourteen, are a quorum, and eight of them may pass any law; so that twenty-five men will have the power to give away all the property of the citizens of these States. What security, therefore, can there be for the people, where their liberties and property are at the disposal of so few men? It will literally be a government in the hands of the few, to oppress and plunder the many. You may conclude, with a great degree of certainty, that it, like all others of a similar nature, will be managed by influence and corruption, and that the period is not far distant when this will be the case, if it should be adopted; for even now there are some among us whose characters stand high in the public estimation, and who have had a principal agency in framing this Constitution, who do not scruple to say, that this is the only practicable mode of governing a people who think with that degree of freedom which the Americans do. This government will have in their gift a vast number of offices of great honor and emolument. The members of the legislature are not excluded from appointments; and twenty-five of them, as the case may be, being secured, any measure may be carried.

The rulers of this country must be composed of very different materials from those of any other of which history gives us any account: if the majority of the legislature are not, before many years they will be entirely at the devotion of the executive, and these States will be soon under the absolute domination of one or a few, with the fallacious appearance of being governed by men of their own election.

The more I reflect on this subject, the more firmly am I persuaded, that the representation is merely nominal—a mere burlesque, and that no security is provided against corruption and undue influence. No free people on earth, who have

elected persons to legislate for them, ever reposed that confidence in so small a number. The British House of Commons consists of five hundred and fifty-eight members; the number of inhabitants in Great Britain is computed at eight millions—this gives one member for a little more than fourteen thousand, which exceeds double the proportion this country can ever have; and yet we require a larger representation in proportion to our numbers, than Great Britain, because this country is much more extensive, and differs more in its productions, interests, manners and habits. The democratic branch of the legislatures of the several States in the Union consists, I believe, at present, of near two thousand; and this number was not thought too large for the security of liberty by the framers of our State Constitutions. Some of the States may have erred in this respect, but the difference between two thousand and sixty-five is so very great that it will bear no comparison.

Other objections offer themselves against this part of the Constitution—I shall reserve them for a future paper, when I shall show, defective as this representation is, no security is provided, that even this shadow of the right will remain with the people. BRUTUS.

BRUTUS.—No. IV.

There can be no free government where the people are not possessed of the power of making the laws by which they are governed, either in their own persons, or by others substituted in their stead.

Experience has taught mankind, that legislation by representatives is the most eligible, and the only practicable mode in which the people of any country can exercise this right, either prudently or beneficially. But then it is a matter of the highest importance, in forming this representation, that it be so constituted as to be capable of understanding the true interest of the society for which it acts, and so disposed as to pursue the good and happiness of the people as its ultimate end. The object of

every free government is the public good, and all lesser interests yield to it. That of every tyrannical government is the happiness and aggrandizement of one, or a few, and to this the public felicity and every other interest must submit. The reason of this difference in these governments is obvious. The first is so constituted as to collect the views and wishes of the whole people in that of their rulers, while the latter is so framed as to separate the interests of the governors from that of the governed. The principle of self-love, therefore, that will influence the one to promote the good of the whole, will prompt the other to follow its own private advantage. The great art, therefore, in forming a good Constitution, appears to be this, so to frame it as that those to whom the power is committed shall be subject to the same feelings, and aim at the same objects as the people do who transfer to them their authority. There is no possible way to effect this but by an equal, full and fair representation; this, therefore, is the great desideratum in politics. However fair an appearance any government may make, though it may possess a thousand plausible articles, and be decorated with ever so many ornaments, yet if it is deficient in this essential principle of a full and just representation of the people, it will be only like a painted sepulchre,—for, without this, it cannot be a free government; let the administration of it be good or ill, it still will be a government, not according to the will of the people, but according to the will of a few.

To test this new Constitution then, by this principle, is of the last importance. It is to bring it to the touch-stone of national liberty, and I hope I shall be excused, if, in this paper, I pursue the subject commenced in my last number, to wit, the necessity of an equal and full representation in the legislature. In that, I showed that it was not equal, because the smallest States are to send the same number of members to the senate as the largest, and because the slaves, who afford neither aid nor defence to the government, are to increase the proportion of members. To prove that it was not a just or adequate representation, it was urged, that so small a number could not resemble the people, or possess their sentiments and dispositions. That the choice of members would commonly fall upon the rich and great, while the middling class of the community would be excluded. That

in so small a representation there was no security against bribery and corruption.

The small number which is to compose this legislature will not only expose it to the danger of that kind of corruption, and undue influence, which will arise from the gift of places of honor and emolument, or the more direct one of bribery, but it will also subject it to another kind of influence no less fatal to the liberties of the people, though it be not so flagrantly repugnant to the principles of rectitude. It is not to be expected that a legislature will be found in any country that will not have some of its members who will pursue their private ends, and for which they will sacrifice the public good. Men of this character are, generally, artful and designing, and frequently possess brilliant talents and abilities; they commonly act in concert, and agree to share the spoils of their country among them; they will keep their object ever in view, and follow it with constancy. To effect their purpose, they will assume any shape, and, Proteus like, mould themselves into any form. Where they find members proof against direct bribery or gifts of offices, they will endeavor to mislead their minds by specious and false reasoning, to impose upon their unsuspecting honesty by an affectation of zeal for the public good; they will form juntos, and hold out-door meetings; they will operate upon the good nature of their opponents by a thousand little attentions, and tease them into compliance by the earnestness of solicitation. Those who are acquainted with the manner of conducting business in public assemblies, know how prevalent art and address are in carrying a measure, even over men of the best intentions and of good understanding. The firmest security against this kind of improper and dangerous influence, as well as all other, is a strong and numerous representation; in such a house of assembly, so great a number must be gained over, before the private views of individuals could be gratified, that there could be scarce a hope of success. But in the Federal assembly seventeen men are all that is necessary to pass a law. It is probable it will seldom happen that more than twenty-five will be requisite to form a majority. When it is considered what a number of places of honor and emolument will be in the gift of the executive, the powerful influence that great and designing men have over the

honest and unsuspecting, by their art and address, their soothing manners and civilities, and their cringing flattery, joined with their affected patriotism,—when these different species of influence are combined, it is scarcely to be hoped that a legislature, composed of so small a number as the one proposed by the new Constitution, will long resist their force. A farther objection against the feebleness of the representation is, that it will not possess the confidence of the people. The execution of the laws in a free government must rest on this confidence, and this must be founded on the good opinion they entertain of the framers of the laws. Every government must be supported, either by the people having such an attachment to it as to be ready, when called upon, to support it, or by a force at the command of the government, to compel obedience. The latter mode destroys every idea of a free government; for the same force that may be employed to compel obedience to good laws, might, and probably would be used to wrest from the people their constitutional liberties. Whether it is practicable to have a representation for the whole Union sufficiently numerous to obtain that confidence which is necessary for the purpose of internal taxation, and other powers to which this proposed government extends, is an important question. I am clearly of opinion it is not, and therefore I have stated this in my first number, as one of the reasons against going into so entire a consolidation of the States. One of the most capital errors in the system is, that of extending the powers of the Federal government to objects to which it is not adequate, which it cannot exercise without endangering public liberty, and which it is not necessary they should possess, in order to preserve the Union and manage our national concerns; of this, however, I shall treat more fully in some future paper. But, however this may be, certain it is, that the representation in the legislature is not so formed as to give reasonable ground for public trust.

In order for the people safely to repose themselves on their rulers, they should not only be of their own choice, but it is requisite they should be acquainted with their abilities to manage the public concerns with wisdom. They should be satisfied that those who represent them are men of integrity, who will pursue the good of the community with fidelity, and will not be

turned aside from their duty by private interest, or corrupted by undue influence; and that they will have such a zeal for the good of those whom they represent, as to excite them to be diligent in their service; but it is impossible the people of the United States should have sufficient knowledge of their representatives, when the members are so few, to acquire any rational satisfaction on either of these points. The people of this State will have very little acquaintance with those who may be chosen to represent them; a great part of them will, probably, not know the characters of their own members, much less that of a majority of those who will compose the Federal assembly; they will consist of men whose names they have never heard, and of whose talents and regard for the public good they are total strangers to; and they will have no persons so immediately of their choice so near them, of their neighbors and of their own rank in life, that they can feel themselves secure in trusting their interest in their hands. The representatives of the people cannot, as they now do, after they have passed laws, mix with the people, and explain to them the motives which induced the adoption of any measure, point out its utility, and remove objections, or silence unreasonable clamors against it. The number will be so small that but a very few of the most sensible and respectable yeomanry of the country can ever have any knowledge of them; being so far removed from the people, their station will be elevated and important, and they will be considered as ambitious and designing. They will not be viewed by the people as part of themselves, but as a body distinct from them, and having separate interests to pursue; the consequence will be, that a perpetual jealousy will exist in the minds of the people against them; their conduct will be narrowly watched, their measures scrutinized, and their laws opposed, evaded, or reluctantly obeyed. This is natural, and exactly corresponds with the conduct of individuals towards those in whose hands they intrust important concerns. If the person confided in be a neighbor, with whom his employer is intimately acquainted, whose talents, he knows, are sufficient to manage the business with which he is charged, his honesty and fidelity unsuspected, and his friendship and zeal for the service of his principal unquestionable, he will commit his affairs into his hands with

unreserved confidence, and feel himself secure; all the transactions of the agent will meet with the most favorable construction, and the measures he takes will give satisfaction. But, if the person employed be a stranger, whom he has never seen, and whose character for ability or fidelity he cannot fully learn —if he is constrained to choose him, because it was not in his power to procure one more agreeable to his wishes, he will trust him with caution, and be suspicious of all his conduct.

If, then, this government should not derive support from the will of the people, it must be executed by force, or not executed at all; either case would lead to the total destruction of liberty. The Convention seemed aware of this, and have therefore provided for calling out the militia to execute the laws of the Union. If this system was so framed as to command that respect from the people which every good free government will obtain, this provision was unncessary—the people would support the civil magistrate. This power is a novel one in free governments; these have depended for the execution of the laws on the *posse comitatus*, and never raised an idea that the people would refuse to aid the civil magistrate in executing those laws they themselves had made. I shall now dismiss the subject of the incompetency of the representation, and proceed, as I promised, to show, that impotent as it is, the people have no security that they will enjoy the exercise of the right of electing this assembly, which, at best, can be considered but as the shadow of representation.

By section four, article one, the Congress are authorized, at any time, by law, to make, or alter, regulations respecting the time, place and manner of holding elections for senators and representatives, except as to the places of choosing senators. By this clause the right of election itself is, in a great measure, transferred from the people to their rulers. One would think that if any thing was necessary to be made a fundamental article of the original compact, it would be that of fixing the branches of the legislature, so as to put it out of its power to alter itself by modifying the election of its own members at will and pleasure. When a people once resign the privilege of a fair election, they clearly have none left worth contending for.

It is clear that under this article, the Federal legislature may

institute such rules respecting elections as to lead to the choice of one description of men. The weakness of the representation tends but too certainly to confer on the rich and well-born all honors; but the power granted in this article may be so exercised as to secure it almost beyond a possibility of control. The proposed Congress may make the whole State one district, and direct that the capital (the city of New York, for instance) shall be the place for holding the election; the consequence would be, that none but men of the most elevated rank in society would attend, and they would as certainly choose men of their own class, as it is true what the Apostle Paul saith, "that no man ever yet hated his own flesh, but nourisheth and cherisheth it." They may declare that those members who have the greatest number of votes shall be considered as duly elected; the consequence would be that the people, who are dispersed in the interior parts of the State, would give their votes for a variety of candidates, while any order, or profession, residing in populous places, by uniting their interests, might procure whom they pleased to be chosen,—and by this means the representatives of the State may be elected by one-tenth part of the people who actually vote. This may be effected constitutionally, and by one of those silent operations which frequently takes place without being noticed, but which often produces such changes as entirely to alter a government, subvert a free constitution, and rivet the chains on a free people before they perceive they are forged. Had the power of regulating elections been left under the direction of the State legislatures, where the people are not only nominally but substantially represented, it would have been secure; but if it was taken out of their hands, it surely ought to have been fixed on such a basis as to have put it out of the power of the Federal legislature to deprive the people of it by law. Provision should have been made for marking out the States into districts, and for choosing, by a majority of votes, a person out of each of them, of permanent property and residence in the district which he was to represent.

If the people of America will submit to a Constitution that will vest in the hands of any body of men a right to deprive them by law of the privilege of a fair election, they will submit

to almost any thing. Reasoning with them will be in vain, they must be left until they are brought to reflection by feeling oppression. They will then have to wrest from their oppressors, by a strong hand, that which they now possess, and which they may retain if they will exercise but a moderate share of prudence and firmness.

I know it is said that the dangers apprehended from this clause are merely imaginary, that the proposed general legislature will be disposed to regulate elections upon proper principles, and to use their power with discretion, and to promote the public good. On this, I would observe, that constitutions are not so necessary to regulate the conduct of good rulers as to restrain that of bad ones. Wise and good men will exercise power so as to promote the public happiness under any form of government. If we are to take it for granted that those who administer the government under this system will always pay proper attention to the rights and interests of the people, nothing more was necessary than to say who should be invested with the powers of government, and leave them to exercise it at will and pleasure. Men are apt to be deceived, both with respect to their own dispositions and those of others. Though this truth is proved by almost every page of the history of nations, to wit, that power, lodged in the hands of rulers to be used at discretion, is almost always exercised to the oppression of the people, and the aggrandizement of themselves; yet most men think if it was lodged in their hands they would not employ it in this manner. Thus when the prophet Elisha told Hazael, "I know the evil that thou wilt do unto the children of Israel; their strongholds wilt thou set on fire, and their young men wilt thou slay with the sword, and wilt dash their children, and rip up their women with child." Hazael had no idea that he ever should be guilty of such horrid cruelty, and said to the prophet, "Is thy servant a dog that he should do this great thing." Elisha answered, "The Lord hath showed me that thou shalt be king of Syria." The event proved, that Hazael only wanted an opportunity to perpetrate these enormities without restraint, and he had a disposition to do them, though he himself knew it not.

BRUTUS.

LETTERS.

[The following letters are quoted for the purpose of giving an idea of the interest which was felt throughout the country, in the progress of the discussion in Massachusetts. The two letters from Knox to Livingston were kindly furnished to the Committee by Mr. George Bancroft. The others have been copied from the "Writings of Washington," edited by Mr. Jared Sparks, and the "Correspondence of the Revolution," by the same learned and faithful editor.]

EXTRACT FROM A LETTER FROM HENRY KNOX.

NEW YORK, 14 January, 1788.

The Massachusetts Convention were to meet on the 9th. The decision of Connecticut will influence, in a degree, their determination, and I have no doubt the Constitution will be adopted in Massachusetts. But it is at this moment questionable whether it will be by a large majority. There are three parties existing in that State at present, differing in their numbers, and greatly differing in their wealth and talents.

The first is the commercial part of the State, to which are added all the men of considerable property, the clergy, the lawyers, including the judges of all the courts, and all the officers of the late army, and also the neighborhood of all the great towns. Its numbers may include three-sevenths of the State. This party are for the most vigorous government. Perhaps many of them would have been still more pleased with the new Constitution, had it been more analagous to the British constitution.

The second party are the eastern part of the State, lying beyond New Hampshire, formerly the province of Maine. This party are chiefly looking towards the erection of a new State, and the majority of them will adopt or reject the new Constitution as it may facilitate or retard their designs, without regarding the merits of the great question; this party, two-sevenths.

The third party are the insurgents, or their favorers, the great majority of whom are for an annihilation of debts, public and private; and therefore they will not approve the new Constitution; this party, two-sevenths.

If the first and second party agree, as is most probable, and also some of the party stated as in the insurgent interest, the Constitution will be adopted by a great majority, notwithstanding all the exertions to the contrary.

JAMES MADISON, IN CONGRESS, TO GEORGE WASHINGTON.

[EXTRACT.]

NEW YORK, 20 January, 1788.

The intelligence from Massachusetts begins to be very ominous to the Constitution. The anti-Federal party is reinforced by the insurgents, and by the province of Maine, which apprehends greater obstacles to her scheme of a separate government from the new system, than may be otherwise experienced. And according to the prospect at the date of the latest letters, there was very great reason to fear, that the voice of that State would be in the negative. The operation of such an event on this State may easily be foreseen. Its legislature is now sitting, and is much divided. A majority of the Assembly are said to be friendly to the merits of the Constitution. A majority of the senators actually convened are opposed to a submission of it to the Convention. The arrival of the absent members will render the voice of that branch uncertain on the point of a Convention. The decision of Massachusetts either way will involve the result in this State. The minority in Pennsylvania is very restless under their defeat. If they can get an Assembly to their wish, they will endeavor to undermine what has been done there. If backed by Massachusetts, they will probably be emboldened to make some more rash experiment. The information from Georgia continues to be favorable. The little we get from South Carolina is of the same complexion.

JAMES MADISON, IN CONGRESS, TO GEORGE WASHINGTON.

NEW YORK, 25 January, 1788.

Dear Sir:—I have been favored, since my last, with yours of the 10th instant, with a copy of the Governor's letter to the Assembly. I do not know what impression the latter may make in Virginia. It is generally understood here that the arguments contained in it in favor of the Constitution are much stronger than the objections which prevented his assent. His arguments are forcible in all places, and with all persons. His objections are connected with his particular way of thinking on the subject, in which many of the adversaries to the Constitution do not concur.

The information from Boston by the mail, on the evening before last, has not removed our suspense. The following is an extract of a letter from Mr. King, dated on the 16th instant:—

"We may have three hundred and sixty members in our Convention. Not more than three hundred and thirty have yet taken their seats. Immediately after the settlement of elections, the Convention resolved that they would consider and freely deliberate on each paragraph, without taking a question on any of them individually; and that, on the question whether they would ratify, each member should be at liberty to discuss the plan at large. This resolution seems to preclude the idea of amendments, and hitherto the measure has not been suggested. I however do not, from this circumstance, conclude that it may not hereafter occur.

"The opponents of the Constitution moved that Mr. Gerry should be requested to take a seat in the Convention, to answer such inquiries as the Convention should make concerning facts which happened in the passing of the Constitution. Although this seems to be a very irregular proposal, yet, considering the jealousies which prevail with those who made it, (who are certainly not the most enlightened part of the Convention,) and the doubt of the issue, had it been made a trial of strength, several friends of the Constitution united with the opponents, and the resolution was agreed to, and Mr. Gerry has taken his seat.

To-morrow, we are told, certain inquiries are to be moved for by the opposition, and that Mr. Gerry, under the idea of stating facts, is to state his reasons, &c. This will be opposed; and we shall, on the division, be able to form some idea of our relative strength. From the men who are in favor of the Constitution, any reasonable explanation will be given; and arguments really new, and in my judgment, most excellent, have been and will be produced in its support. But what will be its fate, I confess I am unable to discern. No question ever classed the people of this State in a more extraordinary manner, or with more apparent firmness."

A Congress of seven States was made up on Monday. Mr. Cyrus Griffin has been placed in the chair. This is the only step yet taken.

I remain, with the highest respect and attachment, &c.,

JAMES MADISON, JR.

BENJAMIN LINCOLN TO GEORGE WASHINGTON.

BOSTON, 27 January, 1788.

My Dear General:—I have the pleasure of inclosing two newspapers, in which are the debates of the Convention to Saturday, the 19th. They are not forward enough to give your Excellency a just state of the business. I therefore am induced to observe, that, yesterday, we were on the ninth section. The opposition seem now inclined to hurry over the business, and bring on, as soon as possible, the main question. However, this they are not permitted to do. It is pretty well known what objections are on the minds of the people; it becomes, therefore, necessary to obviate them, if possible. We have, hitherto, done this with success. The opposition see it, and are alarmed, for there are a vast many people attending in the galleries, (we now assemble in one of our meeting-houses,) and most of the arguments are published in the papers. Both are of use.

Your Excellency will see, in the paper, propositions for adopting the Constitution on conditions. This will not be attended to. It is possible, if we adopt it absolutely, that the Convention may recommend certain amendments. It will never, I presume, be adopted on any conditions. It will pass absolutely, or be rejected. I have now higher expectations that it will pass than when I last wrote. I think the friends to it increase daily. However, I would not raise your Excellency's expectations too high. It is yet impossible to determine, absolutely, its fate. Mr. Gerry, as mentioned in my last, left the Convention in dudgeon. He has not since returned to it. I presume he will not return.

With the highest esteem,

I have the honor of being, my dear General, &c.,

BENJAMIN LINCOLN.

GEORGE WASHINGTON TO BENJAMIN LINCOLN.

MOUNT VERNON, 31 January, 1788.

Dear Sir:—Your favor of the 9th instant came to hand last evening. As you know whatever concerns your happiness and welfare cannot be indifferent to me, you will very readily believe me, when I assure you, that I take a feeling part in your anxiety and distress on account of your son, and most sincerely wish for his recovery.

I thank you, my dear Sir, for your observations upon the advantages which might accrue from a settlement of the eastern parts of your State.[a] I am very sorry to find there is likely to be so powerful an opposition to the adoption of the proposed plan of government with you; and I am entirely of your opinion, that the business of the Convention should be conducted with moderation, candor and fairness, which are not incompatible with firmness. Although, as you justly observe, the friends of the new system may bear down the opposition, yet they

[a] The new lands in the District of Maine.

would never be able, by precipitate or violent measures, to soothe and reconcile their minds to the exercise of the government, which is a matter that ought as much as possible to be kept in view, and temper their proceedings.

What will be the fate of the Constitution in this State is impossible to tell, at a period so far distant from the meeting of the Convention. My private opinion of the matter, however, is, that it will certainly be adopted. There is no doubt but the decision of other States will have great influence here, particularly of one so respectable as Massachusetts.

I feel myself much obliged by your promise to inform me of whatever transpires in your Convention worthy of attention, and assure you that it will be gratefully received.

With the sincerest regard, and the most ardent desire that your distress may be removed by the recovery of your son, I am, dear Sir, &c.,

GEORGE WASHINGTON.

BENJAMIN LINCOLN TO GEORGE WASHINGTON.

BOSTON, 3 February, 1788.

My Dear General:—Your Excellency will find, by the papers of yesterday, which I do myself the pleasure to inclose, that the Governor has taken his seat as President of the Convention; and that he came forward with a motion for the adoption of the Constitution, and subjoined a recommendation that some alterations may take place in it. The motion has taken up a considerable time. Those in the opposition want the Constitution to be accepted *upon condition* that the alterations be made. This they will not be able to carry.

Yesterday noon, a motion was made that the motion under consideration should be committed. This was agreed to, and a large committee was raised, consisting of two members from each of the large counties, and of one for two small ones. It was also agreed that each county should nominate their own members, and that they should take one who had given his

opinion for, and one who had given his opinion against, the Constitution, in each county wherein two were chosen. I expect they will report to-morrow afternoon, to which time the Convention stands adjourned. I hope good will arise from the measure, and that the main question will be taken by Wednesday next. The gentlemen in the opposition urge that the Governor's motion ought to be divided, and that the first question be taken simply, "Whether they will or will not accept the Constitution?" They are opposed in this, and I hope the large committee will adjust the matter, and put an end to any further dispute upon the question.

We find ourselves exceedingly embarrassed by the temper which raged the last winter in some of the counties. Many of the insurgents are in the Convention; even some of Shays's officers. A great proportion of those men are high in the opposition. We could hardly expect any thing else; nor could we, I think, justly suppose that those men who were so lately intoxicated with large draughts of liberty, and who were thirsting for more, would, in so short a time, submit to a Constitution which would further take up the reins of government which, in their opinion, were too strait before. I hope people abroad will consider this matter, and make proper allowances for a clog of this kind. I think the Constitution will pass.

I have the honor of being, my dear General,
With perfect esteem, &c.,

BENJAMIN LINCOLN.

JAMES MADISON, IN CONGRESS, TO GEORGE WASHINGTON.

NEW YORK, 3 February, 1788.

Dear Sir:—Another mail has arrived from Boston, without terminating the conflict between our hopes and fears. I have a letter from Mr. King of the 27th, which, after dilating somewhat on the ideas in his former letters, concludes with the following paragraph:—

"We have avoided every question which would have shown the division of the house. Of consequence, we are not positive of the members on each side. By the last calculation we made on our side, we were doubtful whether we exceeded them, or they us, in numbers. They, however, say that they have a majority of eight or twelve against us. We by no means despair."

Another letter of the same date, from another member, gives the following picture:—

"Never was there an assembly in this State in possession of greater ability and information than the present Convention; yet I am in doubt whether they will approve the Constitution. There are, unhappily, three parties opposed to it. First: all men who are in favor of paper money and tender laws. Those are more or less in every part of the State. Second: all the late insurgents and their abettors. In the three great western counties they are very numerous. We have in the Convention eighteen or twenty who were actually in Shays's army. Third: a great majority of the members from the Province of Maine. Many of them and their constituents are only squatters upon other people's land, and they are afraid of being brought to account. They also think, though erroneously, that their favorite plan of being a separate State will be defeated. Add to these, the honest, doubting people, and they make a powerful host. The leaders of this party are a Mr. Wedgery, Mr. Thomson and Mr. Nasson, from the Province of Maine; a Dr. Taylor, from the county of Worcester, and Mr. Bishop, from the neighborhood of Rhode Island.

"To manage the cause against them, are the present and late governor, three judges of the supreme court, fifteen members of the senate, twenty from among the most respectable of the clergy, ten or twelve of the first characters at the bar, judges of probate, high-sheriffs of counties, and many other respectable people, merchants, &c.; Generals Heath, Lincoln, Brooks, and others of the late army. With all this ability in support of the cause, I am pretty well satisfied we shall lose the question, unless we can take off some of the opposition by amend-

ments. I do not mean such as are to be made conditions of the ratification, but recommendatory only. Upon this plan I flatter myself we may possibly get a majority of twelve or fifteen, if not more."

The legislature of this State has voted a Convention on June 17th. I remain, &c.,

JAMES MADISON, JR.

GEORGE WASHINGTON TO JAMES MADISON, IN CONGRESS.

[EXTRACT.]

MOUNT VERNON, 5 February, 1788.

I am sorry to find by yours and other accounts from Massachusetts, that the decision of its Convention, at the time of their respective dates, remained problematical. A rejection of the new form by that State would invigorate the opposition, not only in New York, but in all those which are to follow; at the same time it would afford materials for the minority, in such as have actually agreed to it, to blow the trumpet of discord more loudly. The acceptance by a bare majority, though preferable to a rejection, is also to be deprecated. It is scarcely possible to form any decided opinion of the general sentiment of the people of this State on this point. Many have asked me with anxious solicitude if you did not mean to get into the Convention, conceiving it of indispensable necessity. Colonel Mason, who returned but yesterday, I am told has offered himself for Stafford county, and his friends say he can be elected not only in that, but in the counties of Prince William and Fauquier also. The truth of this I know not. I rarely go from home, and my visitors, who, for the most part, are travellers and strangers, have not the best means of information.

BENJAMIN LINCOLN TO GEORGE WASHINGTON.

BOSTON, 6 February, 1788.

My Dear General:—The Convention this evening ratified the Constitution; present, three hundred and fifty-five members; one hundred and eighty-seven yeas, and one hundred and sixty-eight nays; nineteen majority in favor of the adoption.

As I mentioned to you in my last, the spirit which operated the last winter had its influence in the appointment of members for the Convention, and was a clog upon us through the whole business. To this source may be ascribed the great opposition we have experienced through the long debates, and the smallness of the majority. I hope the neighboring States will consider this, and not suffer it to weigh in their decisions.

Yesterday there was a motion for an adjournment, which cost us the whole day. Upon the question at evening, there were about one hundred majority against it; this was a damper upon the opposition, and they had little hope after. When, this evening, the question went against them, some of the leaders arose, and assured the Convention that they were convinced that the debates had been conducted with fairness and candor, and that they should return with dispositions to satisfy the minds of their constituents, and to preserve the peace and order of the people at large. I hope and trust they will, and that we shall soon enjoy the blessings of a good government.

I shall continue to write to your Excellency, whilst any thing relative to this great subject shall turn up here worthy your notice. Forgive the haste; the post-office will be shut.

And believe me, with the sincerest esteem and regard,

My dear General, &c.,

BENJAMIN LINCOLN.

P. S. Upon the issue of the question, every demonstration of joy was discovered among the people.

BENJAMIN LINCOLN TO GEORGE WASHINGTON.

[EXTRACT.]

BOSTON, 9 February, 1788.

Nothing very material has taken place since my last, saving what is mentioned in the inclosed paper. By that you will learn what was the temper of many of those who had been in the opposition. I think they discovered a candor, which does them honor, and promises quiet in the State. Some, however, will, I fear, sow the seeds of discontent, and attempt to inflame the minds of the people in the country. They have no real object, as they cannot be certain that it will ever pass nine States. I hope and trust this consideration will quiet them at present; when it shall have passed nine States, it will be too late for any one State to think of opposing it.

Considering the great disorders, which took place in this State the last winter, and considering the great influence that the spirit which then reigned has had since upon all our operations, it may be supposed that we have got through this business pretty well; and, considering, also, that when we came together a very decided majority of the Convention were against adopting the Constitution. Every exertion will be made to inform the people, and to quiet their minds. It is very fortunate for us, that the clergy are pretty generally with us. They have in this State a very great influence over the people, and they will contribute much to the general peace and happiness.

HENRY KNOX TO GEORGE WASHINGTON.

[EXTRACT.]

NEW YORK, 10 February, 1788.

The Constitution has labored in Massachusetts exceedingly more than was expected. The opposition has not arisen from a consideration of the merits or demerits of the thing itself, as a political machine, but from a deadly principle levelled at the

existence of all government whatever. The principle of insurgency expanded, deriving fresh strength and life from the impunity with which the rebellion of last year was suffered to escape. It is a singular circumstance, that in Massachusetts, the property, the ability, and the virtue of the State, are almost solely in favor of the Constitution. Opposed to it are the late insurgents, and all those who abetted their designs, constituting four-fifths of the opposition. A few, very few indeed, well-meaning people are joined to them. The friends of the Constitution in that State, without overrating their own importance, conceived that the decision of Massachusetts would most probably settle the fate of the proposition. They therefore proceeded most cautiously and wisely, debated every objection with the most guarded good nature and candor, but took no questions on the several paragraphs, and thereby prevented the establishment of parties. This conduct has been attended with the most beneficial consequences. It is now no secret, that, on the opening of the Convention, a majority were prejudiced against it.

HENRY KNOX TO ROBERT R. LIVINGSTON.

NEW YORK, Sunday, 10 February, 1788.

Dear Sir:—I send you a summary statement of my last information from Boston. In a few days I expect to be able to congratulate you on the adoption of the new Constitution by Massachusetts. On Wednesday, the 30th ultimo, Mr. Hancock was well enough to take his seat in the Convention. On Thursday he brought forward the proposition for adopting the Constitution, and for recommending certain alterations, agreeably to the paper herein inclosed. The propositions were seconded by Mr. Samuel Adams, and committed to a large committee of two members from each county, a majority of the committee being Federalists. As the propositions were the production of the Federalists, after mature deliberation, there cannot be a doubt that the committee will report in favor of the propositions as they are stated.

The final question was most certainly taken in the Convention somewhere between the 5th and 8th inst. The members of the Convention, and others, who wrote to me on the 3d inst., have no doubt with respect to the adoption of the Constitution, but they do not flatter themselves with a large majority. A most perfect union was effected between the friends of Mr. Hancock and Mr. Bowdoin. Handsome things are said of the open and decisive conduct of Mr. Hancock, and also of Mr. S. Adams, notwithstanding his neutrality in the first part of the business. Please to let Mr. Benson see this letter.

I am, with great esteem, dear Sir,

Your most obedient humble servant,

H. KNOX.

HENRY KNOX TO ROBERT R. LIVINGSTON.

NEW YORK, 13 February, 1788.

My Dear Sir:—The new Constitution was adopted in Massachusetts on the 6th instant, by a majority of 19. The whole present, 355; 187 for it, 168 against it.

The minority behave with magnanimity on the occasion, declaring they will support it with their lives and fortunes. The Boston people have lost their senses with joy.

Your affectionate

H. KNOX.

GEORGE WASHINGTON TO JAMES MADISON, IN CONGRESS.

[EXTRACT.]

MOUNT VERNON, 2 March, 1788.

Sir:—The decision of Massachusetts, notwithstanding its concomitants, is a severe stroke to the opponents of the proposed Constitution in this State; and, with the favorable decision of those States which have gone before it, and such as are likely

to follow, will have a powerful operation on the minds of men, who are not more influenced by passion, pique and resentment, than they are by candor, moderation and judgment. Of the former description, however, I am sorry to say there are too many; and among them some who would hazard every thing rather than fail in their opposition, or have the sagacity of their prognostications impeached by the issue.

GEORGE WASHINGTON TO HENRY KNOX.

[EXTRACT.]

MOUNT VERNON, 3 March, 1788.

My Dear Sir:—I pray you to accept my acknowledgments of your favors of the 10th and 14th ultimo, and congratulation on the acceptance of the new Constitution by the State of Massachusetts. Had this been done without its concomitants, and by a larger majority, the stroke would have been more severely felt by the anti-Federalists in other States. As it is, it operates as a damper to their hopes, and is a matter of disappointment and chagrin to them all.

Under the circumstances enumerated in your letters, the favorable decision which has taken place in that State could hardly have been expected. Nothing less than the good sense, sound reasoning, moderation and temper of the supporters of the measure, could have carried the question. It will be very influential on the equivocal States. In the two which are next to convene, New Hampshire and Maryland, there can be no doubt of its adoption, and in South Carolina but little, which will make nine States, without a dissentient. The force of this argument is hardly to be resisted by local sophistry. Candor and prudence, therefore, it is to be hoped will prevail; and yet I believe there are some characters among us, who would hazard every thing rather than cease their opposition, or leave to the operation of the government the chance of proving the fallacy of their predictions, by which their sagacity and foresight might be impeached.

AMENDMENTS TO THE CONSTITUTION.

ARTICLES

IN ADDITION TO, AND AMENDMENT OF,

THE

CONSTITUTION OF THE UNITED STATES,

Proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the fifth Article of the original Constitution.

ARTICLE 1. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ART. 2. A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.

ART. 3. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

ART. 4. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ART. 5. No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indict-

ment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use, without just compensation.

ART. 6. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

ART. 7. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

ART. 8. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ART. 9. The enumeration in the constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

ART. 10. The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

ART. 11. The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign state.

ART. 12. The electors shall meet in their respective States, and vote by ballot for president and vice-president, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice-president, and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate; the president of the senate shall, in presence of the senate and house of representatives, open all the certificates and the votes shall then be counted; the person having the greatest number of votes for president, shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as president, the house of representative shall choose immediately, by ballot, the president. But in choosing the president the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the house of representatives shall not choose a president whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice-president shall act as president, as in the case of the death or other constitutional disability of the president. The person having the greatest number of votes as vice-president, shall be the vice-president, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list, the senate shall choose the vice-president; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of president shall be eligible to that of vice-president of the United States.

The Constitution was adopted on the 17th September, 1787. by the Convention appointed in pursuance of the Resolution of the Congress of the Confederation of the 21st February, 1787. and was ratified by the Conventions of the several States, as follows, viz.:

Delaware,	Dec.	7, 1787.
Pennsylvania,	"	12, 1787.
New Jersey,	"	18, 1787.
Georgia,	Jan.	2, 1788.
Connecticut,	"	9, 1788.
Massachusetts,	Feb.	6, 1788.
Maryland,	April	28, 1788.
South Carolina,	May	23, 1788.
New Hampshire,	June	21, 1788.
Virginia,	"	26, 1788.
New York,	July	26, 1788.
North Carolina,	Nov.	21, 1789.
Rhode Island,	May	29, 1790.

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